UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2001/43
9 March 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in Afghanistan submitted by Mr. Kamal Hossain, Special Rapporteur, in accordance with Commission resolution 2000/18

GE.01-11632 (E)

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Executive summary

This is the fifth report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan. The fourth report was made following a visit to the Islamic Republic of Iran where refugees in Mashhad and Tehran had been interviewed.

The Special Rapporteur had proposed a visit to Afghanistan in September 2000. The Taliban authorities, however, had denied him the opportunity to visit. The Special Rapporteur again addressed a request to the Taliban authorities to visit locations in Afghanistan in January 2001. They replied that they were not able to receive him because of their urgent preoccupations.

The efforts of the Special Representative of the Secretary-General aimed at securing an agreement by the two warring parties to initiate a process of dialogue resulted in separate letters being addressed to him by the Taliban and the United Front in which they agreed to enter into a process of dialogue under the Secretary-General's good offices aimed at bringing about, in the shortest possible time, an end to the armed conflict in Afghanistan through political means. The agreement signed by the Taliban and the United Front on 2 November 2000 was the first time the two warring sides have committed themselves in writing to a process of dialogue to achieve a political settlement, which suggests that they acknowledge that a military solution is not possible. It is also the first time that they have committed themselves not to abandon the negotiating process until all the items on the agenda have been examined. A distinctive feature of this agreement is that it is an agreement to a process, unlike earlier agreements, which focused on the holding of meetings.

Half a million Afghans left their homes and became displaced during 2000 and early 2001, heading towards impoverished cities and other areas. More people are expected to be on the move over the next several months. According to UNHCR officials in Pakistan, there has been a marked increase in new arrivals in recent months (September 2000-January 2001) and a significant number of these are from northern Afghanistan. Reports from UNHCR sources at the end of January 2001 indicate that the new refugee flows into Pakistan are continuing. These refugee flows are caused by the interrelated impact of conflict, drought and hunger.

All the warring parties have been guilty of grave breaches of international humanitarian law. Their war-making is supported and perpetuated by the involvement of Afghanistan's neighbours and other States in providing weapons, ammunition, fuel and other logistical support. State and non-State actors across the region and beyond continue to provide new arms and other material, as well as training and advisory assistance. The arms provided have been directly implicated in serious violations of international humanitarian law. These violations include aerial bombardments of civilian targets, indiscriminate bombings, rocket and other artillery attacks on areas populated by civilians, reprisal killings of civilians, summary executions of prisoners, rape and torture.

There are credible reports that Taliban forces under the command of Mullah Dadallah systematically executed ethnic Uzbek prisoners in Samagan province in early May 2000. Accounts of the number of killings and the precise burial sites vary, but the killings appear to have been large-scale and are reported to have taken place near the Rubatak Pass, along the road from Mazar-i-Sharif to Pul-i-Khumri.

On 29 December 2000, Hezb-e-Wahdat forces captured Yakawlang. After the Taliban recaptured Yakawlang in early January 2001, there were numerous reports of widespread summary executions of civilians by the Taliban, mostly in villages around Nayak (the estimates range from 100 to several hundred), as well as of mass arbitrary arrests. Eyewitnesses also report that both parties to the conflict violated the neutrality of medical facilities in the district and generally disregarded the rights of civilians to be treated as non-combatants. In addition, at least one United Nations employee is unaccounted for and has not been seen since 7 January. Aid agency personnel are reported to have been killed.

According to a UNICEF Afghanistan paper, after more than two decades of conflict, Afghanistan has some of the worst education indicators in the world. Access is low at all levels, especially for girls but also for boys. According to recent UNESCO data, as few as 3 per cent of Afghan girls and 39 per cent of boys in the relevant age groups may be receiving some form of primary education, the quality of much of which remains poor.

With regard to female employment, a major setback occurred in July 2000 when the Taliban issued a decree of law banning Afghan women from working in aid agencies, except in the health sector. This law not only represents a gross violation of the rights of Afghan women but it has also narrowed considerably the assistance community's access to more than 50 per cent of the Afghan population, since in Afghanistan only women aid workers can work with female beneficiaries. The United Nations Coordinator and other senior United Nations staff made several visits to Kabul and Kandahar in an attempt to negotiate the withdrawal of the law. A decree was promulgated by Mullah Omar on 8 January 2001 to apply capital punishment to Afghans who converted from Islam to either Judaism or Christianity.

Throughout Afghanistan the impact of the war on the economic infrastructure has been devastating. Transport and communication facilities are derelict. For Afghans, there are few job opportunities outside the subsistence economy on the one hand and the criminalized economy on the other. Close to a million people are estimated to be vulnerable, hungry and at risk as a result of the loss of their agricultural output, combined with lack of other opportunities to earn enough money to pay for essential food. A January 2001 report of a United Nations-sponsored health survey in northern Afghanistan found alarming levels of malnutrition among children, and aid officials have warned that the situation could worsen dramatically in coming months. High rates of chronic malnutrition are widespread in Afghanistan owing to extreme poverty; regular illness and a severe drought are exacerbating the problem.

There can be little doubt that all segments of the Afghan population are united on the imperative need for change in the prevailing situation. It is important to underline that a significant improvement in the overall human rights situation requires a comprehensive strategy in which carefully orchestrated and coordinated moves are made at both the macro and micro levels. Such moves should not be seen as alternatives, but as being complementary. Micro-level

incremental measures must clearly be persevered with and humanitarian assistance provided to strengthen the coping mechanisms of the population. However, this cannot be a substitute for resolute action by the international community to bring about a basic framework change.

There is a clear need to initiate and sustain a process in which all segments of the Afghan population, inside and outside Afghanistan, can devise and establish participatory institutions, not only at the community but also at the national level. They would include institutions of governance which would meet the test of being based on the consent of the population and which would enable Afghans to participate in the making of laws and policies and in their implementation. Given the multi-ethnic character of Afghanistan, and also given that there is consensus among the various ethnic groups that they are committed to a unified Afghanistan, the national institutions must be multi-ethnic, broad-based and truly representative. This should be the overriding aim and ultimate goal of a process of sustained negotiation undertaken in good faith.

The international community, acting in particular through the Security Council, would be expected to discharge its fundamental obligation to protect the people and territory of Afghanistan from external interference and from the destructive armed conflict which continues to be externally supported. The sufferings of the Afghan people are compounded by the use of the territory of Afghanistan for various forms of cross-border criminal activity, including drug trafficking. It is an indispensable condition for an overall improvement in the human rights situation that effective action is taken to prevent such activities.

Introduction

1. This is the fifth report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan. The first three reports were submitted following visits to Kabul and Kandahar and to Islamabad, Peshawar and Quetta, where Afghan refugee groups were interviewed. The fourth report was submitted following a visit to the Islamic Republic of Iran, where Afghan refugees in Mashhad and Tehran were interviewed.

2. The Special Rapporteur had proposed a visit to Afghanistan in September 2000. The Taliban authorities, however, denied him the opportunity to visit. The High Commissioner for Human Rights wrote on 5 September 2000 to Mullah Mohammad Omar, the Taliban Supreme Leader, urging that the Special Rapporteur's request be reconsidered and stating that it was a principle of great importance that authorities cooperate with United Nations special rapporteurs. The General Assembly, in its resolution 55/119 of 4 December 2000, called upon the Taliban to accommodate the forthcoming visit of the Special Rapporteur on the situation of human rights in Afghanistan. The Secretary-General, in his report dated 20 November 2000 to the General Assembly and the Security Council (A/55/633-S/2000/1106) (the Secretary-General's report), regretted that the Taliban movement continued to deny access to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan. He took note of the Special Rapporteur's latest report (A/55/346), which highlighted "the alarming situation regarding human rights in Afghanistan". The Special Rapporteur addressed a request to the Taliban authorities proposing a visit in January 2001, in reply to which they apologized for being unable to receive him because of their urgent preoccupations. It is hoped that a visit may be possible some time in March.

3. The Special Rapporteur had proposed visits to Pakistan in September 2000 but was advised that the Minister for Foreign Affairs and senior officials of the Ministry would be in New York in September 2000 attending the Millennium Summit. The Special Rapporteur then arranged to visit New York where he met the Minister for Foreign Affairs of Pakistan, H.E. Mr. Abdus Sattar. He was also able to meet with the Chief of the Afghanistan Headquarters at the Ministry for Foreign Affairs of Iran, H.E. Mr. M.E. Taherian. In addition, the Special Rapporteur met the Permanent Representative of Afghanistan to the United Nations, H.E. Ambassador Farhadi, to review developments in Afghanistan. In New York, the Special Rapporteur met the Chef de Cabinet of the Secretary-General, the Assistant Secretary-General for Political Affairs, the Personal Representative of the Secretary-General for Afghanistan and Head of the United Nations Special Mission to Afghanistan (UNSMA), the Emergency Relief Coordinator, a.i., the Special Adviser to the Secretary-General on Gender Issues and the Advancement of Women, and other senior United Nations officials.

4. On the occasion of presenting his report to the General Assembly on 24 October 2000, the Special Rapporteur had the opportunity to call on the Secretary-General and to bring to his attention specific aspects of his report.

5. On 30 October 2000, the Special Rapporteur participated in a meeting with representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office for the Coordination of Humanitarian Affairs (OCHA), the Department of Political Affairs (DPA), UNSMA and the non-governmental community aimed at

arriving at a better understanding of the situation in Afghanistan and the human rights challenges confronting the United Nations. There was a consensus that Afghanistan is in a deep human rights crisis affecting every aspect of life. Concern was shared that donor fatigue and other factors had resulted in fading interest in and focus on Afghanistan, which was unfortunate. OHCHR could take initiatives to ensure that the human rights situation in Afghanistan receives the attention and resources necessary to encourage meaningful and positive change. In this context, a comprehensive analysis of the human rights situation in Afghanistan, which was proposed at that meeting, could be useful. Its credibility and usefulness would depend on its independence. It would be commissioned by OHCHR and the Special Rapporteur would be associated with such an exercise. The Special Rapporteur could make his time available for this purpose without claiming any additional resources.

6. On 27 November 2000, the Special Rapporteur renewed his requests to visit Kabul, Kandahar and other locations in Afghanistan addressed to Mullah Mohammad Omar, the Taliban Supreme Leader, and to Mullah Wakeel Ahmed Mutawakil, the Taliban Minister for Foreign Affairs.

I. DEVELOPMENTS AIMED AT PROMOTING THE PEACE PROCESS, SEPTEMBER-DECEMBER 2000

7. At the Millennium Summit, the Secretary-General discussed the situation in Afghanistan and the ongoing peacemaking efforts by UNSMA with a large number of Heads of State, including the Presidents of Kazakhstan, the Islamic Republic of Iran, and the Russian Federation, as well as the Chief Executive of the Islamic Republic of Pakistan, and Ministers for Foreign Affairs.

8. During the Ninth Summit of the Organization of the Islamic Conference (Doha, Qatar, 12 and 13 November 2000), the Secretary-General participated in separate discussions on the issue of Afghanistan, in particular with the Heads of State of the Islamic Republic of Iran and Pakistan. The Personal Representative of the Secretary-General, Mr. Francesc Vendrell, also attended the Ninth Summit and took part in several of those meetings.

9. Since his appointment in February 2000, the Personal Representative of the Secretary-General had been engaging in discussions with the Afghan parties, as well as with the Governments of the "six plus two" group on Afghanistan and other concerned and interested Governments. While developing and strengthening his contacts, he began to evolve, in coordination with his interlocutors, some idea as to how a peace process under the auspices of the United Nations might be structured. The Personal Representative met the Taliban Supreme Leader on 5 September 2000 in Kandahar, the Taliban Minister for Foreign Affairs and other ministers and also met the President of the Islamic State of Afghanistan, Professor Burhanuddin Rabbani, the Acting Minister for Foreign Affairs, Dr. A. Abdullah, and Commander Ahmad Shah Massoud. The discussions with the Personal Representative covered the following topics, among others: the repeated demand of the Security Council in its various resolutions and statements for an immediate ceasefire; the non-targeting of civilian populations in the course of the fighting; other humanitarian and human rights matters; issues of terrorism and poppy cultivation; and the views of his interlocutors on the establishment of a broad-based.

multi-ethnic and representative government. These discussions also touched on relations with third countries. It is noteworthy in this connection that each side vehemently complained about persistent outside interference in support of the other side.

10. The positive element which has emerged is that both warring sides have expressed their willingness to consider a negotiated solution to the conflict. The Personal Representative's efforts resulted in the Taliban and the United Front addressing separate letters to him in which they agreed to enter into a process of dialogue under the Secretary-General's good offices aimed at bringing about, in the shortest possible time, an end to the armed conflict in Afghanistan through political means. They also agreed that this process should be conducted either through direct meetings between the two sides, either with the active participation of the Secretary-General or that of his Personal Representative, or indirectly through their intermediation. Notable in the agreement, dated 2 November 2000, was the commitment of the two sides to participate in the dialogue with serious intent and in good faith; and not to abandon the process unilaterally, but rather to pursue it without interruption until the negotiating agenda, to be agreed by the two sides was exhausted. Following this agreement, the Personal Representative began to shuttle between the two sides to discuss elements for the negotiating agenda. If there was a sufficient basis for an eventual agreement, he hoped to schedule a meeting between the two sides, possibly before the end of 2000.

Loya jirga

11. The Personal Representative had two meetings with the former King of Afghanistan, Zaher Shah, the latest in October 2000, to exchange views on the situation in Afghanistan and to discuss the former King's ideas on how a loya jirga, a traditional grand assembly, could be convened inside Afganistan. He also held a series of meetings in Pakistan, Saudi Arabia, the Islamic Republic of Iran and Germany with independent Afghan personalities including many who support the former King's proposal for the convening of an emergency loya jirga. In this context, the Secretary-General in his report stressed that the criterion for participation in the shaping of Afghanistan's future cannot be the holding of weapons, but that non-fighting Afghans, both inside and outside the country, have much to contribute and need to be involved in deciding the ultimate destiny of their country.

12. The focus of the Personal Representative's discussions has been the implications for regional and international security of the situation in Afghanistan, the prospects for peace, the means for achieving a lasting settlement, the question of human rights and logistics.

II. CONTINUATION OF CONFLICT, JULY 2000-JANUARY 2001

13. The Secretary-General's report records that: "The intensity of this year's fighting indicates that the flow of arms and other war-making materiel into Afghanistan continued unabated and, during the last few months, even rose to new levels. The season's full-scale fighting started in the north of Kabul with two vigorous offensives by the Taliban forces on 1 and 9 July."

14. Detailed descriptions of the fighting during the spring and summer period are given in the Secretary-General's previous reports to the General Assembly and the Security Council and were summarized in the Special Rapporteur's interim report (A/55/346, paras. 21-26).

15. In September and early October, Taliban forces secured wider areas around Taloqan and embarked upon a series of attacks to the north, capturing the districts of Khwajaghar, Dashti Archi and Imam Sahab in Takhar Province. At that point, Badakhshan Province was the sole province left entirely under the control of the United Front. On 14 October, the United Front launched a successful counter-attack, recapturing the districts of Imam Sahab and Dashti Archi and the United Front forces advanced towards Taloqan from the east and north. After 10 days of progress, the United Front counter-offensive ebbed and the Taliban were able to push the attacking forces back. As of 5 November, the confrontation lines were more or less the same as at 13 October, and the situation appeared to have developed into a stalemate.

16. On 20 December 2000, Hezb-e-Wahdat forces affiliated with the United Front took over the area of Yakawlang in Bamyan Province in Hazarajat, central Afghanistan, from the Taliban. The area was recaptured by the Taliban on 7 January 2001.

17. On 19 January, the Secretary-General issued a statement expressing concern about reports of deliberate targeting and killing of civilians by the Taliban during recent fighting in the Yakawlang area. He deplored the killing of civilians and demanded that the Taliban take immediate steps to control their forces. More than 100 civilians, including Afghan humanitarian workers, were alleged to have been killed.

18. From reliable sources, there were confirmed reports of widespread killings of innocent civilians in the Yakawlang district of Bamyan Province. OCHA was unable to provide precise details of the number of civilians killed, but indicated that civilians who were believed to be sympathetic to the United Front were targeted by the Taliban and that those killed were non-combatants, not involved in the fighting. The fighting and massacres gave rise to widespread displacement of civilians. According to a United Nations statement, of the estimated 90,000 inhabitants of Yakawlang district, approximately one third had fled their homes.

III. IMPACT OF CONTINUING CONFLICT: MASSIVE DISPLACEMENT

A. Patterns of displacement

19. The first movements of internally displaced persons (IDPs) of the summer occurred in early August after a Taliban assault on Nahrain and Burqa (Baghlan Province) and Ishkamish (Takhar Province) in late July. Populations moved primarily into the upland areas of southern Baghlan (e.g. Khost wa Fereng, Andarab) and southern Takhar, as well as some towards Taloqan.

20. Displacement continued as the Taliban moved eastwards towards Taloqan, when populations from areas west (e.g. Bangi) and immediately north of the city (e.g. Baharak) moved either into the city or northwards. At this stage the first movements of IDPs from

Taloqan into Badakhshan Province (to Keshem and Faizabad) occurred, though the numbers were moderate. A higher level of displacement occurred from Archi (Kunduz Province) and Khaja Ghar (Takhar Province) eastwards across the Kokcha River to Dasht-i-Qala, Khoja Bahauddin and Rustaq (Takhar) as the conflict spread.

21. A second large wave north and east from the Taloqan area into Kalafghan and Farkhar (Takhar) and Keshem (Badakhshan) and to a lesser degree Faizabad followed the final capture of Taloqan on 5 September after over a month's fighting. Many of the IDPs subsequently moved further afield, including some who looped round into Taliban-controlled Taloqan. After the fall of Tangi Farkhar around 1 October, the majority of IDPs moved out of Keshem. Further eastwards, increased displacement occurred across the Kokcha River as conflict spread within Khoja Ghar (Takhar), emptying the district. Many of those IDPs, and the host population, subsequently moved within Dashti-i-Qala and into Khoja Bahauddin districts. With few public buildings, the districts of Khoja Bahauddin and Dashti-i-Qala quickly became saturated and large numbers of IDPs consequently remained under soft shelter outside.

22. Counting the IDPs proved to be difficult in many cases owing to their dispersion and mixing with the host populations, their high mobility, members of the local population masquerading as IDPs and short-range movements by local populations into neighbouring areas. By the first week of October, surveys indicated that there were approximately 11,000 IDP families in 12 districts of Kunduz, Takhar and Badakhshan Provinces. Many districts of origin have now been totally emptied.

23. The reported killings in the course of the military offensives in the Yakawlang area of Hazarajat have led to massive displacement, reportedly of some 30,000 persons out of an estimated population of 90,000, and to the increased suffering of a population that had already been badly affected by the drought and was then exposed to sub-zero temperatures and hunger.

24. According to a report of 31 January 2001 by the Office of the United Nations Coordinator for Afghanistan, over 110 displaced persons in camps in Herat died due to extreme cold on the night of 29/30 January. The number of such deaths is expected to rise as the area continues to experience extremely cold weather, temperatures falling to as low as -25° C. The same report put at approximately 80,000 the number of displaced persons in 6 camps outside Herat City, families having started to leave their homes as early as June 2000 because of the severe drought, which resulted in crop losses averaging 75 per cent and a 50 per cent reduction in livestock assets.

25. According to an assessment by the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) in early February 2001, the situation in Afghanistan deteriorated seriously in the course of 2000 and early 2001. Half a million Afghans have left their homes, heading towards impoverished cities and other areas. Their chances of finding work are low and if they do, they will still not be able to feed their families because of falling wage rates. In some areas a person would have to work for an entire week just to provide one meal for the family. More people were expected to be on the move over the next several months. An appeal had been made at an emergency meeting of donors to respond immediately

to the 2001 Appeal for Afghanistan and specifically to provide US$ 3.5 million for non-food items including shelter, blankets and clothing, US$ 3.2 million in cash to complement food for work programmes and US$ 600,000 for seeds. As of the end of January 2001, only US$ 200,000 of the US$ 3.5 million requested for non-food items had been pledged.

26. An eyewitness account from a most reliable source in January 2001 recorded the suffering, especially of women and children, in IDP camps in Mazar-i-Sharif, a substantial extract from which is contained in annex I to this report.

B. Nature and status of displacement

27. In general, the majority of the IDP population are rural in origin and possess few general assets and very limited food stocks. Many who were able to bring food stocks with them have exhausted them. Those from Khoja Ghar, Hazar Bagh (Takhar) and Archi (Kunduz), at present in districts east of the Kokcha (principally Dasht-i-Qala and Khoja Bahauddin), are considered to be highly vulnerable on account of (a) the impact of the autumn 1999 conflict on their areas of origin and the huge losses of property and assets which resulted; (b) the impact of the current drought on the rain-fed agriculture which predominates in those areas and the very low harvest which they obtained this year; (c) the similar impact of the drought on host communities, whose ability to support them in terms of food and housing is restricted. It is expected that these IDPs will have extremely limited access to food supplies, other than food aid.

28. The majority of IDPs from Taloqan (who moved to Keshem) are of urban origin. A minority among them have been able to transfer their businesses to Keshem and are consequently self-reliant. Most, however, have limited assets and resources and include a large proportion who had previously been displaced, or moved as economic migrants, to Taloqan. Among the latter, those who had enough funds were the first to flee from Taloqan to Faizabad.

29. The shelter situation for IDPs is mixed. Those in Dasht-i-Qala and Khoja Bahauddin are predominantly in the open or sleep outdoors in the compounds of houses belonging to local people; those in Rustaq are in spare or intentionally vacated rooms in local houses; those in Keshem are either inside with local people or in compounds, outdoors; and those in Faizabad are either living in public buildings, with local people or under temporary shelter. The shelter situation in north Takhar is a primary concern. Large numbers are living in the open in Dasht-I-Qala and Khoja Bahauddin, and several sizeable spontaneous camps have emerged.

30. In early October, a joint United Nations and NGO mission found over 10,000 IDPs in Baghlan Province in northern Afghanistan, with 15 to 20 more families arriving each day from Nahrin, Burqa and Ishkamish. Most public buildings in Puli-Kumri and Baghlan city were crammed with IDPs, single rooms housing 8 to 10 families and men having to sleep outside at night. The estimated number displaced in Takhar and Badakhshan Provinces by fighting between advancing Taliban troops and the United Front was about 60,000.

31. In early December, the Office of the United Nations High Commissioner for Refugees (UNHCR) made a formal request to the Government of Tajikistan to admit up to 10,000 displaced Afghans, mostly women and children of Tajik and Uzbek origin, marooned on the islands of the Pyanj River on the Tajik/Afghan border as a result of refusal of the Government of Tajikistan to grant them asylum. The displaced persons, who had been stranded on the islands since mid-November, were suffering from subhuman conditions and had been subjected to frequent shelling by the Taliban forces positioned across from the closed border with Tajikistan. UNHCR indicated that the displaced persons had no access to health facilities, an inadequate supply of food and were not protected against the cold.

32. The Special Rapporteur visited the IDP compound in the former Soviet Embassy in Kabul in September 1999. Subsequent visitors to that compound have reported that the access of the IDPs to the city is controlled by the Taliban and women are reportedly not permitted to leave the area without a written medical note to seek health care. The living conditions in the compound, which had been observed to be quite poor when the Special Rapporteur visited it, have obviously not improved, since the subsequent visitors reported that clean water and adequate toilet facilities were still lacking. Even though the IDP population was largely composed of women and children, reportedly more toilets had been constructed for men than for women. The women interviewed confirmed their fragile and vulnerable states. Many women had been separated from their husbands, some of whom they feared had been killed in the fighting and others were detained in prison.

33. The Guiding Principles on Internal Displacement recognize the unique situation of internally displaced women and girls and call for measures to protect them. Since the majority of the IDP population consists of women and children, it is important to underline the need for the Guiding Principles to be better understood by agencies delivering humanitarian assistance to the IDPs. An international NGO has urged that the agencies concerned need to take new approaches to assisting internally displaced persons; in particular, they need to focus greater attention on protection, on sustaining livelihoods, on self-determination and independence-building activities, on involving women in the peace and reconciliation process and on managing community development activities. It has also made the following recommendations, which merit serious consideration:

(a) Although extremely difficult in war zones, sex disaggregated data collection is crucial to providing effective programming for internally displaced people. Access to good representative data prevents mistakes like the example cited above where more toilets for men were built in a population of mostly women and children.

(b) Agencies need to engage gender specialists to assess internally displaced persons settings so that appropriate actions can be taken to address the different needs and rights of women and men.

(c) Given that the level of literacy of women in many displacement situations is low, information on entitlements and programming should be provided in oral or visual formats for non-literate women.

(d) Lessons-learned documentation from various internally displaced settings need to be published and distributed to enable programmes to be better implemented and past mistakes avoided.

(e) Internally displaced women must be involved in planning, designing and monitoring of programmes. In cases where displaced women have input and ownership in programme activities, as well as in reintegration processes, the risks of gender rights abuses occurring are reduced.

(f) The Guiding Principles on Internal Displacement should be translated into local languages and distributed to women.

(g) Special arrangements should be made to distribute food directly to women and to involve them in the process of distribution and monitoring.

(h) United Nations agencies should consider promoting an inter-agency mechanism to ensure institutional responsibility for gender in situations of displacement.

(i) More attention is needed on programmes that encourage self-determination and community development efforts and less on short-term emergency measures.

(j) Periodic gender audits should be commissioned by the lead agency in a given setting of internal displacement to ensure that gender issues are addressed according to international standards and guidelines.

34. Longer-term perspectives on the situation of the IDPs are provided in a paper entitled "Assistance and human rights in war-torn Afghanistan: challenge and opportunity", prepared for the Afghanistan Support Group (ASG) meeting in Montreux, Switzerland in December 2000: "Conflict-related displacement included a refugee population that numbered more than 6 million at the end of the 1980s. A significant number of these refugees have returned but Afghans continue to be displaced and seek refuge and a means of survival outside the country." The paper cites a 1999 UNHCR survey which found that 27 per cent of returnees did not hold regular jobs, 21 per cent found their houses "completely destroyed", 46 per cent had no access of any kind to health-care services and 79 per cent of families with school-age children did not have any children at school. It is further noted that all key indicators, including those for infant and maternal mortality, life expectancy and vaccination coverage, show that Afghanistan is one of the three most difficult places in the world in which to survive.

35. The ASG paper succinctly depicts the situation which needs to be addressed if human rights are to be protected against further deterioration:

> "It is increasingly apparent that the coping capacity of those who are most vulnerable has been severely weakened as a result of the war; the majority of the population struggles to survive at near subsistence levels. The situation of females, including in particular female-headed households, is of particular concern given the many

old and new restrictions that limit their ability to provide for themselves and their families. Indeed, for women and men alike there are very few job opportunities outside the subsistence economy; for many, the only available option is the criminalized economy or relocation to another area. Afghanistan's socio-economic indicators are well known and are likely to get worse as the drought takes its toll and the underlying causes of poverty and underdevelopment are largely ignored. It is this reality - coupled with the knowledge of what was possible in pre-war Afghanistan - which should motivate the international community to tackle the dynamics which contribute to a worsening of the crisis and with it a further deterioration of the human rights situation."

C. New refugee flows

36. According to UNHCR officials in Pakistan, there has been a marked increase in new arrivals in recent months (September 2000-January 2001). A significant number of these arrivals are from northern Afghanistan. Traditionally, the majority of Afghan refugees, including new arrivals passing into Pakistan at this time of the year, come from the eastern region and other nearby provinces. The Government of Pakistan banned the entry of new refugees from Afghanistan on 9 November 2000, citing "security and economic considerations". Pakistani officials initially asserted that they could not cope with the additional influx of Afghan refugees in the absence of international support. They also expressed concern that United Front supporters tasked with carrying out acts of sabotage might infiltrate into Pakistan in the refugee influx. Pakistani border guards continued to allow entry to Afghans who could produce identification documents establishing prior refugee status in Pakistan, as well as to Afghans without such papers if they had a note from the Taliban authorities attesting their status as prior refugees, traders, or NGO or government workers. Obviously, persons fleeing from the northern areas in the face of Taliban military operations, who were among the most vulnerable, were not in these categories. A reliable source indicates that many of those seeking to cross into Pakistan, some of whom were stranded in the Samar Khel camp at Jalalabad, had been affected by the conflict in the north, and that members of the Ismaili (Shiite) minority were reportedly buying their exit from Afghanistan to destinations in Pakistan.

37. According to reliable reports, several thousand Afghan refugees were struggling to get near the Pakistani border, only to be beaten back by their Taliban compatriots. Even young boys and old men were not spared. Interviewees indicated that, while crossing at the Torkham border, Afghans with possessions (clothes, food, hens, a goat or two) faced a gauntlet of border police who harassed them for money. From reports based on lengthy observation and interviews, it appeared that some families were stopped up to six times. On each occasion they had to hand over money.

38. Large-scale returns following 1992 have largely stopped and at present it is estimated that some 4 million refugees remain in Pakistan and Iran, many of them children born of refugee parents. In Pakistan, in the past 10 years, it is estimated that some 600,000 children have been born to camp residents alone. The Afghan refugee caseload remains the largest in the world: the annual UNHCR budget allocation to the region this year amounted to approximately $42 million - only 5 per cent of its overall budget.

39. Reports at the end of January 2001 from UNHCR sources indicate that the new refugee flows into Pakistan are continuing. The situation is evolving by the day and growing increasingly complex "due to the appalling situation inside Afghanistan". In Pakistan, a makeshift site, referred to as Jalozai, close to the border is reported to host over 70,000 new arrivals. The UNHCR sources further indicate that of the 14,000 or so Afghans at this site, the great majority are new arrivals since September and that, if the situation continues to deteriorate at such a rapid pace, UNHCR will face major problems in identifying and securing new sites in Pakistan. These refugee flows are caused by the interrelated impact of conflict, drought and hunger.

IV. HUMAN RIGHTS SITUATION, SEPTEMBER 2000-JANUARY 2001

A. Impact of armed conflict on human rights and violations of international humanitarian law

40. The Human Rights Watch World Report 2001, Asia Overview, summarizes once again the terrible impact of the more than 20-year-long armed conflict in Afghanistan. It records that during that time Afghanistan has lost a third of its population. Some 1.5 million people are estimated to have died as a direct result of the conflict. Another 5 million (or more) fled as refugees to Iran and Pakistan; others became exiles elsewhere abroad. The Afghan conflict has not only produced the largest refugee population in recent decades, but also some of the largest numbers of internally displaced persons. Afghanistan has the world's lowest life expectancy and literacy rates and the highest rates of infant, child and maternal mortality. With Somalia, it is ranked as one of the world's two hungriest countries.

41. The Human Rights Watch report confirms earlier findings, reflected in the reports of the present Special Rapporteur and his predecessors, that all the warring parties have been guilty of grave breaches of international humanitarian law. Their war-making is supported and perpetuated by the involvement of Afghanistan's neighbours and other States in providing weapons, ammunition, fuel and other logistical support. State and non-State actors across the region and beyond continue to provide new arms and other material, as well as training and advisory assistance. The arms provided have been directly implicated in serious violations of international humanitarian law. These include aerial bombardments of civilian targets, indiscriminate bombings, rocket and other artillery attacks on areas populated by civilians, reprisal killings of civilians, summary executions of prisoners, rape and torture. Further, on the basis of extensive research in Afghanistan and adjacent countries, the report claims that major transit routes used to move arms and other equipment, the suppliers and the role of State and non-State actors have been identified.

42. The ASG paper (see para. 34 above) notes that experience in Afghanistan since the beginning of the war points to a pattern of abuse by all warring parties that demands greater attention to the need to augment the protection of civilians and to erode the prevailing climate of impunity. Further, it notes that in the absence of concerted and effective measures to hold the perpetrators of violations to account, it is unrealistic to expect that the problem will be resolved or that assistance actors can effectively address the issue of protection.

Samangan massacre

43. There were credible reports that Taliban forces under the command of Mullah Dadallah systematically executed ethnic Uzbek prisoners in Samagan Province in early May 2000. Accounts of the number of killings and precise burial sites vary, but the killings appear to have been large-scale and are reported to have taken place near the Rubatak Pass, along the road from Mazar-i-Sharif to Pul-i-Khumri. Those executed were variously reported to have been prisoners of war, Hazara conscripts who refused to serve with the Taliban and young men who had been arbitrarily detained in Samangan shortly before.

Reported summary executions in Yakawlang

44. On 29 December 2000, Hezb-e-Wahdat forces captured Yakawlang, which was recaptured by the Taliban in early January 2001. According to the spokesman for the United Nations Secretary-General, after the Taliban captured Yakawlang, there were numerous reports of widespread summary executions of civilians by the Taliban, mostly in villages around Nayak, (the estimates range from one hundred to several hundred), as well as mass arbitrary arrests. Eyewitnesses also reported that both parties to the conflict violated the neutrality of medical facilities in the district and generally disregarded the right of civilians to be treated as non-combatants. In addition, at least one United Nations employee is unaccounted for and has not been seen since 7 January. Aid agency personnel are reported to have been killed.

B. Health

45. A WHO Afghanistan paper on health priorities for action, presents the following statistics regarding the grim reality in the health sector: every day in Afghanistan about 45 women die of pregnancy-related causes and there are over 16,000 maternal deaths each year. Only about 15 per cent of deliveries are attended by trained health workers and more than 90 per cent of births take place at home. Most of the maternal deaths are due to inadequate health services. Infectious diseases account for more than half of all premature deaths and disability, one of the chief causes of epidemics being the lack of safe drinking water and sanitary surroundings. Tuberculosis is a major killer of young adults. At least 15,000 Afghans die of tuberculosis each year; more than three fourths are young adults and 64 per cent are women. The impact of the ongoing conflict daily adds victims, both through physical violence and mental stress. It is estimated that 3 to 4 per cent of the population of Afghanistan are disabled to the point of needing some kind of service. While some progress has been made in establishing community-based health and rehabilitation committees, extending rehabilitation services to around 100,000 disabled persons, these activities are restricted to only some geographical regions (60 out of 330 districts) and only a small proportion of the need even in the areas covered.

C. Education

46. A UNICEF Afghanistan paper entitled "Education - a chronic emergency in Afghanistan" records that after more than two decades of conflict, Afghanistan has some of the worst education indicators in the world. Access is low at all levels, especially for girls but also for

boys. According to recent UNESCO data, as few as 3 per cent of Afghan girls and 39 per cent of boys in the relevant age groups may be receiving some form of primary education, the quality of much of which remains poor.

47. The ASG paper provides some hope for the future: there is a growing demand for education, including in rural areas where there is significant and increased support for girl children to go to school. But results cannot be expected overnight; long-term commitment is necessary.

D. The media

48. A report entitled "Afghanistan: the Taliban and the media - a country with no news and pictures" (September 2000), published by Reporters Without Borders after a survey of the past and present situation, concludes: "Afghanistan today is one of the countries where absolutely no press freedom exists. The Taliban have extended and developed the policy of their predecessors, both the communists and the mujahideen. They totally control all means of communication and - like nowhere else in the world - they have banned pictures. This attitude deprives the Afghan people, scarred by more than 20 years of civil war, of seeing what their country and the world outside look like. This phobia of representing humanity and nature explain the Taliban militiamen's relentless attacks on foreign journalists, cameramen and photographers seeking a visual record of a country that seems to have been thrust back into the Middle Ages." Among the many specific cases cited, the most recent is that of the arrest of three foreign journalists on 11 August 2000 on the orders of the Taliban Deputy Minister for the Promotion of Virtue and Suppression of Vice on the charge of taking pictures of a football match. The journalists concerned were a Pakistani, Khawar Mehdi, a United States freelance photographer Jason Flario and a Brazilian reporter, Pepe Scobar, who said: "The religious police arrested us and interrogated us for two hours. They confiscated the photographer's films, claiming we had broken their law, which forbids taking photos of living creatures."

E. Women

49. A document entitled "Take our words abroad", published by the Women's Commission for Refugee Women and Children (22 October 2000) and prepared with the support of the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan, with the disclaimer that it does not necessarily reflect the views of the United Nations system in Afghanistan, has recorded the views of a group of professional women in Kabul who continue to struggle to survive, some of which are reproduced below:

> "Those people don't know our problems and if and how women's rights are being trampled in Afghanistan. If we know that the UN is defending our rights and backing us, then we would be willing to make sacrifices and to work under any conditions. As long as we feel we have support, we can work. The UN should take our words abroad. Those Afghan women who are advocating abroad speak with bare faces and they report hearsay. They're not allowing women who are inside Afghanistan to participate and to express their problems."

50. A report by the Senior United Nations Gender Adviser entitled "The July 2000 Decree of Law on Female Employment" (December 2000) records that during 1999 and the first quarter of 2000, a number of positive developments gave the assistance community signs that the severe restrictions on the education and employment of women were being slowly reconsidered by the authorities. The World Food Programme (WFP), for example, was able through patient negotiations to employ nearly 900 women in its surveys in Mazar-i-Sharif and Jalalabad. The UNDP PEACE (Poverty Eradication and Community Empowerment) programme employed 18 female teachers and two female monitors in Kandahar and Farah to work in community-based schools for girls and UNHCR managed to negotiate the return of its four female monitors in Kabul. The number of women working in public hospitals in all regions was on the increase. Preliminary figures indicate that in June 2000, nearly 1,000 female doctors and female workers were working with the assistance community, while nearly 4,800 women were working in other occupational categories. These developments may seem insignificant to those who are not familiar with the complexity of the highly restrictive environment facing assistance programmes in Afghanistan, but field workers who have a more informed memory of realities in the field welcomed what seemed a change of position on the part of the Taliban on female employment and considered them to be windows of opportunity that need to be sustained and strengthened.

July 2000 Decree of Law on Female Employment

51. A major setback occurred in July 2000 when the Taliban issued a decree banning Afghan women from working in aid agencies except in the health sector. The law not only represented a gross violation of the rights of Afghan women but also narrowed considerably the assistance community's access to more than 50 per cent of the Afghan population, since in Afghanistan only women aid workers can work with female beneficiaries.

52. The assistance community in Afghanistan was deeply disturbed by this new development. By the end of July, the United Nations Secretary-General issued a statement expressing concern over the issue. In July and August, the United Nations Coordinator and other senior United Nations staff made several visits to Kabul and Kandahar in an attempt to negotiate the withdrawal of the law. For their part, the donor community organized a march to the Afghan Embassy in Islamabad to express their concern and explain the possible negative implications of this restrictive law for donor assistance to the people of Afghanistan. Negotiations with the authorities on this issue are ongoing.

F. Food

53. WFP Afghanistan records that Afghanistan's grain production has fallen by more than 50 per cent in the past two years and now meets less than half of total national grain requirements. Water tables are declining alarmingly in many parts of the country as a result of the drought and excessive uncontrolled harvesting of ground water. Livestock herds, an important asset and safety net, have been severely depleted. Close to a million people are estimated to be vulnerable, hungry and at risk owing to loss of their agricultural output, combined with lack of other opportunities to earn enough money to pay for essential food.

54. The WFP Afghanistan paper perceptively underlines that: "The absence of a well-functioning, development-oriented government in Afghanistan aggravates these problems, since some of the instruments normally used to promote food security - such as government-run safety nets, pricing policies, large irrigation and other infrastructure investments and agricultural research and extension - are not available."

55. A January 2001 report on a United Nations-sponsored health survey in northern Afghanistan has found alarming levels of malnutrition among children and aid officials warned that the situation could worsen dramatically in coming months. The survey, by the WFP and Action contre la faim (ACF) aid group found almost 10 per cent of children under the age of 30 months in the northern city of Mazar-i-Sharif to be suffering from acute malnutrition. The report stated that high rates of chronic malnutrition were widespread in Afghanistan owing to extreme poverty. Regular illness and a severe drought were exacerbating the problem. WFP had stepped up food distribution throughout Afghanistan but, as a result, its already limited resources were being strained. It planned to distribute some 20,000 tonnes of food per month and in addition needed 12,000 tonnes of food for 60,000 refugees. Its stocks were expected to run out by April 2001. WFP estimates at the end of January 2001 were that it needed 172,000 tonnes of food to continue its emergency operations for another year from April 2001. However, international donors have failed to respond to an urgent appeal for 4.9 million dollars to help feed the 60,000 new Afghan refugees.

G. New decree

56. A decree was promulgated by Mullah Omar on 8 January 2001 to apply capital punishment to Afghans who converted from Islam to either Judaism or Christianity.

V. NEED FOR A STRATEGY OF CHANGE

57. There can be little doubt that all segments of the Afghan population are united on the imperative need for change. As a United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan report entitled "Vulnerability and humanitarian impact of United Nations Security Council sanctions in Afghanistan" (17 August 2000) notes: "The coping capacity of the civilian population has been severely weakened as a result of the war and the erosion of many traditional coping mechanisms, including in particular the role of extended family networks." The report also notes that the majority of the population is struggling to survive at near subsistence levels. According to several food security surveys, around 50 per cent of the population of Kabul (approximately 1.7 million) and other major urban centres are highly vulnerable. In other words, they fall below the WFP-determined minimum income level required per person per month to meet minimum food and essential non-food needs. The level of vulnerability of rural areas remains an area of major concern. Throughout Afghanistan, the impact of the war on the economic infrastructure has been devastating. Transport and communication facilities are derelict. For Afghans, there are few job opportunities outside the subsistence economy on the one hand and the criminalized economy on the other.

58. The report observes that there is a strong consensus within Afghanistan on the need for the United Nations to upgrade and intensify its political engagement and peace-making efforts. Afghans from all walks of life have repeatedly queried why more is not being done to achieve peace and bring the war to an end.

59. The efforts of the Personal Representative of the Secretary-General aimed at promoting a renewed peace process represent a significant United Nations initiative. The agreement signed by the Taliban and the United Front on 2 November 2000 was the first time the two warring sides have committed themselves in writing to a process of dialogue to achieve a political settlement, which suggests that they acknowledge that a military solution is not possible. It is also the first time that they have committed themselves not to abandon the negotiating process until all the items on the agenda have been examined. A distinctive feature of this agreement is that it is an agreement to a process, unlike earlier agreements which focused on the holding of meetings.

VI. CONCLUDING OBSERVATIONS

60. It is important to underline that significant improvement in the overall human rights situation requires a comprehensive strategy of carefully orchestrated and coordinated moves at both the macro and micro levels. These moves should not be seen as alternatives but as complementary. Micro-level incremental measures must clearly be persevered with and humanitarian assistance provided to strengthen the coping mechanisms of the population. However, this cannot be a substitute for resolute action by the international community to bring about a basic framework change.

61. The need is clear for initiating and sustaining a process in which all segments of the Afghan population, inside and outside Afghanistan, can take part in devising and establishing participatory institutions, not only at the community but also at the national level. This framework would embrace institutions of governance which will meet the test that they are based on the consent of the population and enable it to participate in the making of laws and policies and in their implementation. Given the multi-ethnic character of Afghanistan, but also given that there is consensus among the various multi-ethnic groups that they are committed to a unified Afghanistan, the national institutions must be multi-ethnic, broad-based and truly representative. This should be the overriding aim and ultimate goal of a process of sustained negotiations undertaken in good faith.

62. The international community, acting in particular through the Security Council, would be expected to discharge its fundamental obligation to protect the people and territory of Afghanistan from external interference and from the destructive armed conflict, which continues to be externally supported. The sufferings of the Afghan people are compounded by its territory being used for various forms of cross-border criminal activity, including drug trafficking. It is an indispensable condition for an overall improvement in the human rights situation that effective action is taken to prevent such activities.

63. The concerns regarding the impact of sanctions must be assessed keeping in view their efficacy in protecting the territory and people of Afghanistan from such external abuse. Care should be taken to ensure that implementation of the sanctions does not in any way impair or affect the economic and social rights of ordinary Afghan women, men and children. The sanctions are not expected or intended to have an adverse impact on these rights. Sanctions provide an incentive to make progress towards peace. A historical example, which may be relevant, of the way in which sanctions provide incentives for the progressive withdrawal of repressive measures is that of South Africa, where sanctions were used to initiate and sustain a purposeful negotiating process and to create the conditions for it through the release of political detainees and the repeal of repressive laws. In the context of Afghanistan, the current developments could provide a powerful incentive for all to move forward with purposeful negotiations aimed at peace, and measured steps towards the emergence of a multi-ethnic, broad-based and truly representative government.

Annex I

EYEWITNESS ACCOUNT (JANUARY 2001) OF CONDITIONS IN IDP CAMPS IN NORTHERN AFGHANISTAN

1. We stop in the middle of a huge valley near Mazar in north Afghanistan. A military building where all the windows have been closed by bricks stands in front of us. This is Mazar IDP camp No. 65.

2. A number of men are sitting outside the building in a circle. We get out of our cars and walk towards them. On the left a man in his seventies is crying bitterly. I ask our translator to ask the men why he was crying. The response was that he has lost his two grandsons that morning and preparations are being made for their burial near the camp.

3. We enter the camp. A strong smell fills the place, a smell of bodies and human secretion. The place is so dark one can hardly see. There is no light in this building: no electricity, no fire and no candles. It takes me some time to distinguish the figures around. We enter the first "opening" on our right. The room has no door, no windows or even a curtain that gives its occupants some privacy or protects them from the draught. It is freezing cold despite my warm clothes, heavy coat and the woollen scarf. Two dead children are lying in the middle of the room and a number of women and children are sitting around them. I ask who the mother is. Our translator asks and they point to a woman sitting on the left. Unlike the grandfather, she is not crying. She looks at us blankly as we all stare at her. "Were the children sick?" After some exchange between our translator and the other women he responds. "They were not sick. They died of cold. Also because there is no food that keeps the children and old people warm."

4. I move to the other room. I notice suddenly that the place is so quiet. I wonder how can it be when there are 150 families living in the building. A voice in me answers that perhaps deep desolation makes people silent. In the second room nine people are sitting on the cement floor. Near the door of the room a very sick teenage boy is lying on some kind of sheeting with a quilt covering him. He looks at us as we enter. He too, has the same kind of look as the mother who lost her two kids. I am told he is sick. This is why he has the one quilt the family has. Five children sit near the wall with their hands on their chests. They are shaking and looked very strange. For seconds I cannot tell why they look so strange. Then gradually it dawns on me. This is the very first time in my life I see NAVY BLUE CHILDREN. I have seen black children, white children, yellow children, coffee-coloured children, but never navy blue children.

5. And so we go from one room to another in Mazar IDP camp 65 building No. 1, where 150 Afghan IDP families live. We leave for building No. 2. A number of women and children stand outside the building. They thought we were delivering food. I get out of the car and as I look at them, face after face, I realize that the children, who wear cotton clothes but no shoes or socks, DID have navy blue faces, navy blue hands and navy blue feet. A strong wind is blowing and everybody, including the members of our convoy, is shivering. I walked towards a very sick-looking child. He backs away from me with a frightened look on his face. I ask the translator to tell his mother that I do not intend to harm him. She pushes him towards me and when I touch his hand it feels like ice. I asked our translator to ask why the children are this strange colour. My translator, an Afghan, looks at me with a disbelieving look in his eyes.

"They look blue because it's cold and because they do not have food." The old man who was crying in the other building approaches us with a little boy, holding his hand. He stands in front of me and starts speaking in Dari: he is still crying. I find myself crying too. It is heartbreaking to see very old people crying. Our translator informs us that the old man wants to tell us that this is the only grandson he has left and that he is afraid of losing him too.

6. There are out there, in Kabul, Herat, Kandahar, Mazar and Bamyan, nearly half a million internally displaced persons who have no shelter, no food, no clothing and who when they look at their children for the last time before they bury them may think that one more kilogram of flour or potatoes, a pair of woollen socks, a pair of shoes or a jacket might have saved their children from death. If you are troubled by this story, please pass it to all who may contribute to making the suffering of Afghan people known to the world.

Annex II

TEXT OF LETTERS DATED 29 JANUARY 2001 ADDRESSED BY THE SPECIAL RAPPORTEUR TO THE HEAD OF THE TALIBAN COUNCIL, MULLAH MOHAMMAD OMAR, AND TO THE PRESIDENT OF THE ISLAMIC STATE OF AFGHANISTAN, MR. BURHANUDDIN RABBANI, RELATING TO THE REPORTED SUMMARY EXECUTION OF CIVILIANS AND OTHER BREACHES OF INTERNATIONAL HUMANITARIAN LAW IN THE COURSE OF RESUMED ARMED HOSTILITIES IN THE YAKAWLANG AREA (DECEMBER 2000-JANUARY 2001)

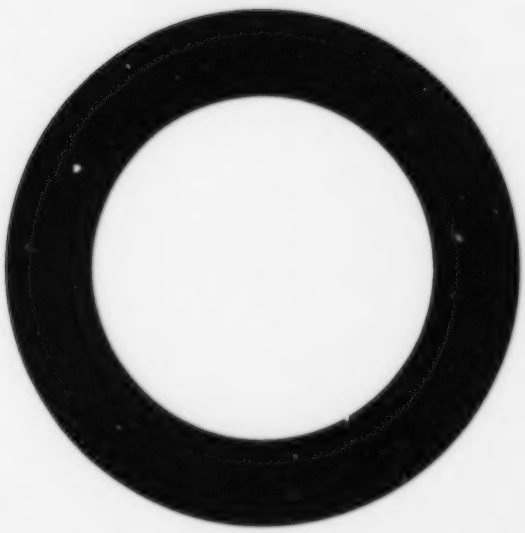
I am extremely concerned about the reports that are now coming out of Yakawlang district in Hazarajat. I have received numerous accounts of civilians being deliberately attacked and killed and subjected to gross and systematic violations of their human rights.

It is reported that on 28-29 December 2000, United Front Hezb-e-Wahdat forces captured Yakawlang, which was subsequently recaptured by Taliban forces in the first week of January 2001. In the course of this offensive, it is reported that both conflicting parties showed utter disregard for the well-being of the civilian population.

The civilian population, I am informed from independent and reliable sources, did not participate in the armed hostilities and remained in their villages. However, it appears that the Taliban forces engaged in widespread summary executions and arbitrarily detained hundreds of civilians who are still unaccounted for. A United Nations staff member is still missing and it is reported that local humanitarian personnel are among those killed. It is also reported that United Front forces occupied a hospital and leprosy centre that was subsequently attacked by Taliban troops.

I would earnestly appeal to both sides to refrain from resumption of armed conflict. I would also urge that immediate investigations be undertaken to identify those responsible for grave violations of human rights and international humanitarian law. Such violations give rise to international criminal responsibility.

I would like to visit the area and gather relevant information so that facts can be determined and appropriate action taken. In the meantime, I would appreciate receiving any information that the Taliban authorities could provide about the above-reported occurrences and measures taken to ensure that the right to life and the right not to be subjected to summary execution and arbitrary detention are protected.



UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2001/43/Add.1
27 March 2001

ENGLISH ONLY*

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in Afghanistan submitted by Mr. Kamal Hossain, Special Rapporteur, in accordance with Commission on Human Rights resolution 2000/18

Addendum

1. This addendum to my fifth report has become necessary in order to incorporate information about matters relevant to the human rights situation in Afghanistan as a result of developments which have taken place since the report was finalized in mid-January, when that information was not available. It relates to reports of gross violations of human rights and breaches of international humanitarian law, including summary execution of civilians, alleged to have been committed by both of the warring parties. There have also been significantly increased flows of new refugees into Pakistan and the Islamic Republic of Iran in the last few months and a deepening of the humanitarian crisis.

Summary executions and massacres

2. I received a letter dated 1 February 2001 from the Permanent Mission of the Islamic State of Afghanistan to the United Nations Office at Geneva in which it was reported that Taliban forces, in the course of military offensives in the provinces of Takhar and Kunduz, had engaged in mass killings of innocent civilians around 23 January 2001. It was alleged that the victims were found buried in two mass graves and a list of the names of victims in the villages of Bagh Zakheera, Rustaq and Mamayee was enclosed.

* The annexes are reproduced in the original languages only.

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3. By a letter dated 19 February 2001 addressed to the Human Rights Commission, the Taliban authorities reported that following an attack on the town of Bamyan by the opposition forces, crimes and genocide had been committed upon entry into the town by those forces.

4. On 26 February 2001, I wrote letters to the Taliban authorities and the Islamic State of Afghanistan forwarding the reports received containing the above allegations and seeking their comments.

5. The Islamic State, by its letter dated 6 March 2001, denied the allegations regarding the killing of civilians in Bamyan and suggested that I carry out an on-site inquiry into these allegations. In that letter, they also reported that there had been a massacre of several hundred civilians by the Taliban in the Yakawlang district of Bamyan province and suggested that I visit Yakawlang to make inquiries.

6. The Taliban authorities, by their letter dated 19 March 2001, denied the allegations regarding summary executions levelled against them in the letter dated 6 March 2001 from the Permanent Mission of the Islamic State. Copies of the two letters are annexed to the present document, along with copies of other relevant communications.

7. The reports of summary executions and massacres are a source of mounting concern as in recent years the continued conflict and the taking and retaking of particular areas by the warring parties have resulted in massacres involving reprisal killings and summary executions. A recurrent pattern is manifest from the (not exhaustive) list of such occurrences reported over the last four-year period, as follows: Mazar-i-Sharif/Dasht-i-Laili (Shebergan) in May 1997; Mazar-i-Sharif Airport (Qezelabad) in September 1997; Qaysar in December 1997; Mazar-i-Sharif in August 1998; Kayan valley in August 1998; Bamyan in May 1999; Shamali plains in August 1999; Khwaja Ghar in Takhar province in September 1999; Ghostandi in Sar-i-Pul province in January 2000; Robatak in Samangan province in May 2000; Taloqan in Takhar province in September 2000; Yakawlang in Bamyan province in January 2001; Khwaja Ghar in Takhar province in January 2001; and Bamyan in February 2001.

8. Widespread concern has been expressed at the massacres and summary executions reportedly carried out by one or other of the warring parties at different sites. On 19 January 2001, the United Nations Secretary-General issued a statement expressing concern about "numerous credible reports" that civilians were deliberately targeted and killed in Yakawlang. The Secretary-General called on the Taliban to take "immediate steps to control their forces", adding that the reports required "prompt investigation" and that those responsible should "be brought to justice".

9. The United Nations High Commissioner for Human Rights, in her statement published on 16 February 2001, called for an international investigation into massacres and other serious abuses committed by warring parties in Afghanistan, including the reported summary execution of over 100 civilians by Taliban forces in Yakawlang district of Bamyan province in January 2001, in the following terms: "In view of the pattern of repeated massive violations of human rights and humanitarian law, I call upon the international community to establish an independent international inquiry into the massacres and other grave human rights violations committed by parties to the armed conflict in Afghanistan."

10. It is now increasingly recognized that the impunity enjoyed by those who have been responsible for ordering and carrying out the massacres and summary executions and the absence of accountability for such gross violations of human rights and grave breaches of humanitarian law has contributed to the repeated occurrence of such violations. There is thus a growing opinion that in order to deter and prevent the occurrence of such atrocities, an effective international initiative is called for not only to document, denounce and then cut the sinews of war (arms supplies, external financial support, linkages with drug warlord) but also to expose and hold to account those responsible for war crimes, breaches of international humanitarian law and gross violations of human rights. International cooperation would be needed to deny impunity and enforce accountability by developing mechanisms to undertake full investigation to gather evidence and to identify those responsible in order that they may be brought to justice.

11. The latest reports of summary executions and massacres provide a challenge and an opportunity to the international community to take the needed initiative. Reports supported by reliable eyewitnesses document some of the summary executions and massacres carried out in January 2001 in Yakawlang. These reports indicate that in the taking and retaking of Yakawlang breaches of humanitarian law were committed by both parties as they violated the neutrality of medical facilities in the district and disregarded the rights of civilians to be treated as non-combatants. Yakawlang was captured by the United Front forces (Hezbe Wahdat and Harakat Islami) on 28 December 2000 but was recaptured by the Taliban in early January 2001. Taliban forces reached the district centre of Nayak in the morning of 8 January 2001. Following the retaking, there were reports of mass arrests followed by summary executions carried out between 8 and 12 January 2001. A number of aid agency personnel and a United Nations staff member were among those killed. The Human Rights Watch report published on 19 February 2001 has identified civilian victims, including a number of aid workers and staff of international humanitarian agencies, hospitals, and local relief and assistance organizations. This report indicates that search parties were organized to round up male civilians in house-to-house searches. Those rounded up were detained and many of them - the total number being estimated at several hundred - were reportedly executed. It is also reported that a number of Hazara elders who came to intercede with the Taliban were killed. Some of the execution sites identified include outside a relief agency in Nayak, outside the district hospital, the ravine behind the mosque in the old bazaar area, outside the prayer hall of Mindayak village and Qala Arbab Hassan. A number of sites of mass graves have also been identified.

12. The report has also identified the commanders of the respective forces in the Yakawlang operations. It is reported that Mullah Shahzad Kandahari, whose name was mentioned in reports relating to the Samangan massacre in May 2000, was one of the Taliban commanders involved in the Yakawlang operation. The presence of other Taliban commanders who are reported to have been in Yakawlang at that time include Mullah Abdul Sattar, Mullah Abdullah Sarhadi, Mullah Abdul Salam 'Rocketi' and Qari Ahmadullah of Ghazni.

13. It is thus clear that there is enough material available to carry out a more thorough investigation and to gather evidence with a view to establishing the exact circumstances in which civilians were detained and executed, as well as to identifying those responsible for such breaches of international humanitarian law. Such an investigation, if undertaken promptly, could reasonably be expected to achieve these objectives. Investigators could, through on-site visits, gather substantial evidence, as they would have access to the graves where the victims are

buried, the execution sites and many eyewitnesses to the events. The Taliban authorities and the Islamic State of Afghanistan would be expected to respect their obligation to cooperate in the carrying out of these investigations. The findings of these investigations would provide a basis for enforcing accountability through appropriate mechanisms at the national and international levels.

Humanitarian crisis: result of drought, displacement and conflict

14. The facts relating to the humanitarian crisis which are contained in my report need to be updated as the crisis has been deepening and the number of persons affected has been steadily increasing. In the six months between September 2000 and March 2001 700,000 Afghans have had to leave their homes because of drought, war, or a combination of the two. They have joined the ranks of those displaced by previous episodes of fighting. Over 1 million Afghans do not have the resources to see them through to the next harvest. In the most critical areas, nutritional indicators show that mortality rates have reached alarming levels. Three consecutive years of severe drought have had a devastating impact on the agriculture and economy of the country. Families are selling their animals, eating their seed and seeing their fruit trees wither and die.

15. Significant new refugee flows into Iran have been reported and some 170,000 have crossed into Pakistan since mid-2000. Of these, some 60,000 are in temporary shelters in the Shamshatoo camp near Peshawar. Personal interviews with some of the new arrivals confirm that what they were fleeing was the combined effect of drought, hunger and conflict. The recurrence of conflict in different areas exposed the civilian population to shelling and aerial bombardment, to massacres and summary executions, and forced conscription. They were thus victims of gross human rights violations and of breaches of international humanitarian law. A substantial part of them are in Jalozai camp near Peshawar where registration by the United Nations was not being allowed, thereby denying them the minimum assistance which was available to the refugees in Shamshatoo. Conditions of the newly arrived in Jalozai are said to be so desperate that it has been described as a living graveyard. The situation of refugees is aggravated by the imposition of a ban on new arrivals by Pakistan which, having hosted the single largest and one of the oldest refugee populations in the world, has argued that it simply cannot cope with new inflows. This has resulted in the suspension by regional authorities of the verification process begun on 25 January 2001 by the Office of the United Nations High Commissioner for Refugees to determine who is most vulnerable and in need of urgent assistance, followed by the Government's decision that all undocumented Afghans would be subject to deportation. Following these decisions, there were reports of the forcible deportation of thousands of Afghans. Many of those who had fled Afghanistan in order to survive in the face of drought, hunger and conflict were members of ethnic minorities and other vulnerable groups. It is necessary to appeal to the authorities concerned to respect internationally agreed-upon principles of refugee protection in respect of the new arrivals from Afghanistan.

16. The urgent need for more humanitarian assistance cannot be overemphasized. The crisis will deepen if more resources are not quickly made available. The Afghanistan Appeal for 2001, which covers just "bare bones" requirements, was for US$ 229 million; this works out roughly to $10 per Afghan for the whole year. Traditionally, Afghans receive about half the requested amount; this means roughly $5 per Afghan. By contrast, the donor response per capita in Angola was $47.98 and $139.11 in East Timor in 2000. Near-famine conditions are being reported and

those engaged in the work of humanitarian assistance on the ground are issuing warnings of a severe famine which threatens to lead to further deaths from starvation. Afghanistan is classified among the three hungriest countries in the world. The World Food Programme launched a new emergency appeal on 13 March 2001 for a $76 million operation to save millions of people in Afghanistan from starvation owing to a long and devastating cycle of drought and civil war. This appeal will target 3.8 million people for one year.

Continuing armed conflict and the human rights deficit

17. Those engaged in armed conflict are devoting, for the destructive purposes of war, resources which could help to save the lives of those who are dying of cold and starvation. Not only does conflict divert life-saving resources but also inflicts suffering on the civilians who bear the brunt of the destruction. The authorities also cannot escape accountability for putting obstacles in the way of the work of humanitarian agencies, including harassment of aid personnel and deliberate denial of access to particular communities. The policy and practices of the Taliban authorities, which exacerbate the discrimination already suffered by Afghan women, continue to be a major concern. Women's mobility, including their ability to undertake paid employment outside the home, continues to be severely restricted.

18. The continuing conflict and its destructive impact on communities and the right to life, and the accumulated and indirect effects of war contribute to a massive human rights deficit. This deficit includes the denial of the right to food, the right to health and the right to education. Nor do Afghans enjoy freedom from fear or freedom of association. The collapse of civil society and the limited ability of Afghans to participate in or influence decision-making have a direct and negative impact on their right to life and other rights essential for livelihood and survival with a modicum of dignity. Women and girls suffer disproportionately in the realization and enjoyment of all their rights and there are few indications that this will improve significantly any time in the near future.

Annex

Mission Permanente
de l'Etat Islamique d'Afghanistan
auprès des Nations Unies à Genève

نمایندگی دایمی دولت اسلامی افغانستان
نزد ملل متحد در ژنیو

No: AFM 21/305

Genève, le 01 février 2001

Madame le Haut Commissaire,

Au cours des opérations militaires récentes, la milice des Taliban, en guise de représailles contre la population civile,ont perpétré des exécutions sommaires et massives.

Le Gouvernement de l' Etat Islamique d' Afghanistan vous prie de bien vouloir envoyer une Mission d' enquête ou d' entreprendre toute autre démarche qui vous parait adéquate sur ces exécutions qui en font suite à d' autres.

"L'impunité" dont les Taliban ont joui dans le passé , les encourage à continuer à perpétrer ces massacres.

Dans l' annexe , vous trouverez les noms des victimes de même que les localités où les massacres ont été perpétré.

Dans l' attente d'être informé des suites que vous voudrez bien donner à cette demande, je vous prie d' agréer, Madame le Haut Commissaire. l' assurance de ma haute considération.

Humayun TANDAR
Ministre conseiller
Chargé d' Affaires

Copie adressée à :
-Mr. Kamel Hussein,Rapporteur Spécial
sur la situation des droits de l' homme
en Afghanistan
- Rapporteur Spécial sur les exécutions
sommaires et extrajudiciaires

A l' intention de Mme Mary ROBINSON
Haut Commissaire des Nations Unies
aux Droits de l' Homme
Office des Nations Unies
GENEVE

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME

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REFERENCE: G/SO 214 46-1

26 February 2001

Dear Sir,

I am writing in connection with a communication issued in February 2001 by the Taliban Ministry of Foreign Affairs alleging that United Front forces attacked the city of Bamyan in February 2001 and killed some 120 people, most of whom reportedly belonged to the Pushtoon ethnic group. It has been alleged that tens of children, women and elderly were among those killed. It has also been alleged that passengers travelling through Bamyan from the north of Afghanistan to Kabul have also been killed, their property looted and their vehicles set on fire.

I would be very grateful for your comments on the matters contained in the above communication.

Yours sincerely,

Kamal Hossain
Special Rapporteur of the
Commission on Human Rights
on the situation of human rights in
Afghanistan

Mr. Mohammad Homayun Tandar
Minister Counselor
Chargé d'Affairs
Permanent Mission of the Islamic State of Afghanistan
Geneva

News Update Wednesday, 24 January 2001

Armed Forces Foil Taliban Offensive in Takhar, Gain Ground

Taliban Retaliate by Killing Innocent Villagers, Bury Many in Mass Graves

Takhar, Afghanistan – The Pakistani-backed Taliban militia has, for some time now, prepared for a large-scale winter offensive on the positions of the Armed Forces of the Islamic State of Afghanistan in Khawja Ghar, in northern Afghanistan, in order to bring more of the country's territory under its control. The capture of additional areas would have created conditions for the Taliban's spread of extremism to the territories of Central Asian republics.

In an attempt to foil the latest Pakistani-backed Taliban offensive, the Armed Forces of the Islamic State of Afghanistan, in a preemptive operation, yesterday January 23, made some fresh gains by liberating the Villages of Qandahari Qeshlaq, Bagh Zakheera, Takhman and Mamayee. Additionally, the airstrip was also captured.

Military intelligence reports had already confirmed deployment of fresh Pakistani troops and shipment of large quantities of arms and ammunition in the provinces of Takhar and Kunduz, in northeastern Afghanistan, prior to January 18, 2001, when the latest United Nations sanctions became effective. The latest sanctions, part of the UN Security Council Resolution 1333, implements an arms embargo on the Pakistani-backed Taliban militia.

However, the Taliban upon loss of the said villages, engaged in mass killings of innocent civilians. At least two mass graves were found, where in one 13 and in the other 26 ordinary people were buried. Additionally, the Taliban forcibly took some 70 civilians as hostages upon their retreat.

Following are names of those mostly brutally shot in the face and buried in the mass graves found by the authorities of the Islamic State of Afghanistan today.

Name	Son Of	Village	Age	Profession
1. Zaidullah	Qurban Bye	Bagh Zakheera	45	Farmer
2. Noorullah	Zaidullah	Bagh Zakheera	17	Farmer
3. Abdullah	Haji Deewan Khan	Bagh Zakheera	30	Farmer
4. Ghazi Baye	Haji Deewan Khan	Bagh Zakheera	22	Farmer
5. Taher	Mullah Haider	Bagh Zakheera	50	Farmer
6. Ata Khan	Khal Baye	Bagh Zakheera	24	Farmer
7. Hameed	Khal Baye	Bagh Zakheera	22	Farmer
8. Mateen	Khal Baye	Bagh Zakheera	20	Farmer
9. Pahlawan	Ahmad	Bagh Zakheera	20	Shepherd
10. Muhebullah	Mahkam Taj	Bagh Zakheera	35	Farmer
11. Sufi	Baye Del	Bagh Zakheera	30	Farmer
12. Yaseen	Faiz Baye	Bagh Zakheera	35	Farmer
13. Assadullah	Sangee Baye	Bagh Zakheera	25	Shepherd

List of those murdered from the Village of Rustaq:

Name	Son Of	Village	Site of Murder
1. Habibullah	Baig Ali	Rustaq	Qandahari Qeshlaq
2. Abdul Hameed	Haleem Qul	Rustaq	Qandahari Qeshlaq
3. Shamsuddin	Mohammad Hassan	Rustaq	Qandahari Qeshlaq
4. Ismayel	Abdul Sattar	Rustaq	Qandahari Qeshlaq
5. Mohd. Naseem	Jan Mohd.	Rustaq	Qandahari Qeshlaq
6. Imam Berdi	Taghi Murad	Rustaq	Qandahari Qeshlaq
7. Imamuddin	Mohd. Akbar	Rustaq	Qandahari Qeshlaq
8. Zamanuddin	Mohd. Aman	Rustaq	Qandahari Qeshlaq
9. Bismillah	Mohd. Naim	Rustaq	Qandahari Qeshlaq
10. Ahmadullah	Saifullah	Rustaq	Qandahari Qeshlaq

List of those murdered from the Village of Mamayee:

Name	Son Of	Village	Age	Profession
1. Mohd. Naim	Choba Khan	Mamayee	20	Farmer
2. Mrs. Faiz Baye		Mamyee	38	Housewife
3. Mahmood	Naik Mohd.	Mamayee	20	Farmer
4. Mullah Zaman	Ustad Tukhtar	Mamayee	30	Preacher
5. Qurban Khan	Ustad Tukhtar	Mamayee	35	Farmer

Note: Bodies of 16 others were so badly mutilated that it was impossible to recognize them.

The following is list of those forcibly taken by the Taliban:

Name	Son Of	Village	Age	Profession
1. Abdul Qamar	Qurban Ali	Mamayee	30	Farmer
2. Karim	Noor Ali	Mamayee	30	Farmer
3. Qara Khan	Tora Khan	Mamayee	45	Farmer
4. Mohd. Hakeem	Kata Baye	Mamayee	30	Farmer
5. Bazar Wakil	Jora Baye	Mamayee	40	Farmer
6. Nazir Ahmad	Kata Baye	Mamayee	25	Farmer
7. Ahmad	Naik Mohamad	Mamayee	30	Farmer
8. Naik Mohd. Baye		Mamayee	40	Farmer
9. Dewana Afel Baye	Aata Khan	Mamayee	84	Farmer
10. Said Mohd.	Shair Mohd.	Mamayee	35	Farmer
11. Abulilah Baig	Tash Taimor	Mamayee	45	Farmer
12. Hussain	Ayed Baye	Mamayee	30	Farmer
13. Shah Mohd.	Shah Mahmoud	Mamayee	25	Farmer
14. Meenab	Chopan Khan Baye	Mamayee	20	Farmer

15. Abdullah	Sardad	Mamayee	25	Farmer
16. Qari Abdul Hadi	Qari Zaher	Mamayee	35	Preacher
17. Zia	Sara Khan Baye	Mamayee	20	Farmer
18. Parukhuddin	Ismail Chal	Mamayee	30	Farmer
19. Zaoqi	Top Alam	Mamayee	35	Farmer
20. Azam Qul Baye	Abdi Baye	Mamayee	40	Farmer
21. Ghulam Qader	Ghulam Haider	Mamayee	30	Farmer
22. Eshan	Said Murtaza	Mamayee	10	Farmer
23. Eshan	Said Ata	Mamayee	25	Farmer

<H4>Afghan Taleban deny massacring civilians in central Province </H4>

<EM>Text of report by Pro-Taleban Afghan news agency Bakhtar on 19 February</EM>

Kabul:

Letter by the Foreign Ministry of the Islamic Emirate of Afghanistan

The Foreign Ministry of the Islamic Emirate of Afghanistan would like to send it regards to the UN coordination mission in Kabul and requests it to convey the content of this letter to the Human Rights Commission in Geneva and to all the other relevant legal institutions.
Recently the opponents of the Islamic Emirate of Afghanistan with foreigners' support mounted an attack on the town of Bamian [centre of central Bamian Province]. To avoid casualities among innocent local people, the army of the Islamic Emirate decided to retreat.
When the opponents entered Bamian they resorted to crime and genocide, and as Bamian is in the crossroads between the northern Provinces and Kabul and a number of other towns, those travelling through Bamian were killed and looted too.
The Islamic Emirate 's army could not tolerate these criminal actions of the opponents and attacked Bamian and, with the blessing of God, managed to clear it of corrupt and wicked elements.
After entering the town, the Islamic army found dead bodies of innocent men, women and children.
Where are human rights activists now and why don't they condemn the deeds of our opponents?
We can see that some human rights activists always accuse the Islamic Emirate of Afghanistan of violations and ignore wrongdoings and crimes of our opponents.

These [human rights] institutions obtain baseless and inaccurate reports from unreliable and biased sources and the opponents of the Islamic Emirate.
The Islamic Emirate of Afghanistan controlled Bamian Province for two and half years. No complaints were heard from anybody and all the people there lived in an atmosphere of peace and security.
We once again resolutely deny the baseless accusations that allegedly hundreds of people have been killed by the Islamic Emirate's army in Yakawlang [District] of Bamian Province. If anyone was killed there he was killed by the opposition militia.
In the Islamic Emirate of Afghanistan there is no racial, ethnic and or any other discrimination. Security has been restored in Bamian Province now and people can live in peace.
The Foreign Ministry takes the opportunity to convey its best regards.

<EM>Source: Bakhtar news agency, Kabul, in Dari 1340 gmt 19 Feb 01</EM>

د افغانستان اسلامی امارت
د بهرنیو چارو وزارت
Islamic Emirate of Afghanistan
Ministry of Foreign Affairs

کګه: ۹۴۳
نېټه: ۱۴۲۱/۱۱/۲۵

یادداشت

وزارت امور خارجه امارت اسلامی افغانستان با اظهار تعارفات به دفتر محترم ناظم ملل متحد در کابل احتراماً مینگارد تا متن ذیل را از طریق خویش به کمیسیون حقوق بشر در ژنیو و سایر مراجع حقوق بشر اطلاع داده امتنان بخشند.

چندی قبل مخالفین امارت اسلامی افغانستان به همکاری جانب بر شهر بامیان تجاوز را آغاز نمودند. بر ی پنکه در این حملات تلفات به مردم بیگناه تمیز نگردد، لازم دیده شد تا اردوی امارت اسلامی عقب نشینی نمایند.

قتی مخالفین داخل شهر بامیان شدند دست به جنایات آنه گتسی در شهر بامیان زده و عمداً چون بمبی راه رفت و آمد ولایات شمال با شهر کابل و سایر شهر ها میباشد عابرین این شهر ها را که از بامیان در حال عبور بودند نیز به قتل رسانیده، مال و دارائی شانرا به یغما بردند.

اردوی امارت اسلامی افغانستان این جنایات مخالفین را تحمل کرده نتوانسته به شهر بامیان حملات خویش را آغاز و به نصرت الهی این شهر را از وجود عناصر شر و فساد نجات داده و بازهم شان رحمتی اسلامی در شهر بامیان احساس شد. ها انسان به شمول مردان، زنان و اطفال بیگناه که توسط مخالفین به قتل رسیده، که به مشاهده رسید. حالا گجا است داعیان حقوق بشر که عمل بشری را محکوم نمایند؟ تا وقتیکه درک مینمایند یک تعداد از داعیان حقوق بشر جانبدار بوده و همیشه بر امارت اسلامی اتهام وارد مینمایند و از جنایت مخالفین چشم میپوشند این ادارات اظهارات بی اساس و نادرست را از منابع

د افغانستان اسلامی امارت
د بهرنیو چارو وزارت
Islamic Emirate of Afghanistan
Ministry of Foreign Affairs

شکره:

نمبر:

غیر ملزق مغرضین و مخالفین امارت اسلامی بدست آوردند که عاری از حقیقت میباشد امارت اسلای در ولایت بامیان بیش از دونیم سال میشود که حاکمیت دارد که از هیچ کس و یه مرجعی شکایات شنیده نشد و تمام مردم در فضای صلح و امنیت به زندگی خویش مصروف بودند و هستند. ما یکبار دیگر اتهامات بی اساس را که گویا در یکاولنگ ولایت بامیان اضافه از یکصد تن اشخاص ملکی توسط اردوی امارت اسلای به قتل رسده اند جداً رد مینمائیم و اگر کشته شده باشند آنهم نظامیان خواهد بود.

در قلمرو امارت اسلامی هیچ نوع تبعیض نژادی. قومی و غیره وجود نداشته و اکنون هم در ولایت بامیان امنیت کامل تامین بوده و مردم در صلح و آرامش به زندگی خویش میپردازند.

وزارت امور خارجه ممنون است تا موضوع را به مرجع مربوطه اطلاع داده و امتنان بخشید.

وزارت امور خارجه با اغتنام از فرصت به تجدید احترامات فایقه میپردازد.

RECEIVED

به اداره محترم ناظم ملل متحد در کابل.

ACT.
B. F. DATE:

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REFERENCE: G/SO 214 (46-7)

26 February 2001

Dear Mawlawi Wakeel Ahmed,

I am writing in connection with a communication dated 1 February 2001 received from the Permanent Mission of the Islamic State of Afghanistan in Geneva in which it is alleged that in January 2001, Taliban forces engaged in the killing of civilians in the Khawja Ghar area of northern Afghanistan. Lists of persons with their names, age and profession who were killed in the villages of Rustaq, Bagh Zakheera and Mamayee is attached. It is reported that at least two mass graves were found, containing the bodies of 13 and 26 persons, respectively, in the villages.

I would be very grateful for your comments on the matters contained in the above communication in which it is also alleged that 70 civilians from the area have been taken as hostages.

Yours sincerely,

Kamal Hossain
Special Rapporteur of the
Commission on Human Rights
on the situation of human rights in
Afghanistan

Mawlawi Wakeel Ahmed Mutawakel
Taliban Minister of Foreign Affairs
Kabul, Afghanistan

Following are names of those mostly brutally shot in the face and buried in the mass graves found by the authorities of the Islamic State of Afghanistan today

Name	Son Of	Village	Age	Profession
1. Zaidullah	Qurban Bye	Bagh Zakheera	45	Farmer
2. Noorullah	Zaidullah	Bagh Zakheera	17	Farmer
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List of those murdered from the Village of Rustaq:

Name	Son Of	Village	Site of Murder
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2. Abdul Hameed	Haleem Qul	Rustaq	Qandahari Qeshlaq
3. Shamsuddin	Mohammad Hassan	Rustaq	Qandahari Qeshlaq
4. Ismayel	Abdul Samar	Rustaq	Qandahari Qeshlaq
5. Mohd. Naseem	Jan Mohd.	Rustaq	Qandahari Qeshlaq
6. Imam Berdi	Taghi Murad	Rustaq	Qandahari Qeshlaq
7. Imamuddin	Mohd. Akbar	Rustaq	Qandahari Qeshlaq
8. Zamanuddin	Mohd. Aman	Rustaq	Qandahari Qeshlaq
9. Bismillah	Mohd. Naim	Rustaq	Qandahari Qeshlaq
10. Ahmadullah	Saifullah	Rustaq	Qandahari Qeshlaq

List of those murdered from the Village of Mamayee:

Name	Son Of	Village	Age	Profession
1. Mohd. Naim	Chota Khan	Mamayee	20	Farmer
2. Mrs. Faiz Baye		Mamyee	38	Housewife
3. Mahmood	Naik Mohd.	Mamayee	20	Farmer
4. Mullah Zaman	Ustad Takhtar	Mamayee	30	Preacher
5. Qurban Khan	Ustad Takhtar	Mamayee	35	Farmer

Note: Bodies of 16 others were so badly mutilated that it was impossible to recognize them.

The following is list of those forcibly taken by the Taliban:

Name	Son Of	Village	Age	Profession
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2. Karim	Noor Ali	Mamayee	30	Farmer
3. Qari Khan	Tora Khan	Mamayee	45	Farmer
4. Mohd. Hakeem	Kata Baye	Mamayee	30	Farmer
5. Bazar Wakil	Jora Baye	Mamayee	40	Farmer
6. Nasir Ahmad	Kata Baye	Mamayee	25	Farmer
7. Ahmad	Naik Mohamad	Mamayee	30	Farmer
8. Naik Mohd. Baye		Mamayee	40	Farmer
9. Dewana Afel Baye	Aata Khan	Mamayee	84	Farmer
10. Said Mohd.	Shair Mohd.	Mamayee	35	Farmer
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12. Hussain	Ayed Baye	Mamayee	30	Farmer
13. Shah Mohd.	Shah Mahmoud	Mamayee	25	Farmer
14. Meenab	Chopan Khan Baye	Mamayee	20	Farmer
15. Abdullah	Sardad	Mamayee	25	Farmer
16. Qari Abdul Hadi	Qari Zaher	Mamayee	35	Preacher
17. Zia	Sara Khan Baye	Mamayee	20	Farmer
18. Parukhuddin	Ismail Chal	Mamayee	30	Farmer
19. Zaqqi	Top Alam	Mamayee	35	Farmer
20. Azam Qul Baye	Abdi Baye	Mamayee	40	Farmer
21. Ghulam Qader	Ghulam Haider	Mamayee	30	Farmer
22. Eshan	Said Murata	Mamayee	10	Farmer
23. Eshan	Said Ata	Mamayee	25	Farmer

Permanent Mission of the Islamic State of Afghanistan to the United Nations at Geneva
Geneva. 6 March 2001

Ref: AFM21/011

Sir.

We acknowledge receipt of your letter C/SO 214(46-17) of 26 February 2001. in which you refer to Taliban allegations that the armed forces of the Islamic State of Afghanistan had executed 120 people. the majority of them Pashtuns, at Bamian.

On behalf of the Islamic State of Afghanistan, we reject these allegations and suggest that, in order to establish the truth, you visit Bamian and conduct an enquiry into them.

We suggest that, at the same time, you visit the Yakaolang district (Bamian province) and make enquiries into the massacre of several hundreds of civilians by the Taliban.

My Government is prepared to do all in its power to facilitate your investigation. In this way you will be able to distinguish between the truth and lies about these massacres.

Accept. Sir. the assurances of my highest consideration.

[Signed]

Humayun Tandar
Minister Counsellor
Chargé d'Affaires

Mr. Kamal Hussein
Special Rapporteur on the situation of human rights in Afghanistan
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Geneva

HR/NONE/2001/74

In the Name of Allah, the Most Benevolent and Most Merciful

The Islamic Emirate of Afghanistan
Ministry of Foreign Affairs

Number: 1025
Date: 19 March 2001

The Ministry of Foreign Affairs of the Islamic Emirate of Afghanistan extends its respects to the United Nations mission in Kabul.

In his letter number G 50214(46_17), Kamal Hossain writes:

The representative of Rabbani in Geneva has sent me a letter, which states as if the forces of the Islamic Emirate have killed and arrested civilians in Khwaja Ghar and in surrounding districts in the northern parts of Afghanistan.

Kamal Hossain knows well that the opponents of the Islamic Emirate cast unfounded and baseless accusations against the Islamic Emirate. Forces of the Islamic Emirate have never committed such killings or arrests and we strongly deny these accusations and consider them as lies.

We expect from Kamal Hossain that he does not believe in reports of the opposition, and of the prejudiced, and does not cast such accusations on the Islamic Emirate.

The Islamic Emirate of Afghanistan requests that the Mission of the United Nations in Kabul forward this message to Kamal Hossain.

Once again, the Ministry of Foreign Affairs renews its respects [to the Mission of the United Nations in Kabul].

Seal and signature

[Unofficial translation by UNCO, Islamabad]

UNITED
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Economic and Social
Council

Distr.
GENERAL

E/CN.4/2001/44
19 March 2001

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the human rights situation in Burundi submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, in accordance with Commission resolution 2000/20

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Summary

The present document is the third report submitted by Ms. Marie-Thérèse A. Keita Bocoum, Special Rapporteur on the human rights situation in Burundi, whose mandate was extended by the Commission on Human Rights in its resolution 2000/20 of 18 April 2000. In accordance with that resolution, the Special Rapporteur submitted an interim report to the General Assembly at its fifty-fifth session (A/55/358) following her second mission to Burundi from 27 June to 7 July 2000. This report, which covers the period from 1 August 2000 to 31 January 2001, relates to the general situation in Burundi, in particular to the questions of human rights and developments in the rule of law. It is based on the Special Rapporteur's mission to Burundi from 18 to 26 January 2001.

As on her previous missions, the Special Rapporteur met with the highest-political, military, judicial, civil and religious authorities, representatives of the diplomatic corps and heads of United Nations bodies. In the provinces of Gitega and Bubanza, she visited a prison, a nutrition centre and displaced persons' camps and spoke with administrative, judicial, military and religious authorities. The Special Rapporteur also held meetings with the Representative of the Secretary-General in Bujumbura and with the Special Representative of the Secretary-General for the Great Lakes region in Nairobi.

Based on the information gathered, the Special Rapporteur addresses in Part I of this report the political, economic and social situation, in particular developments in the peace process since the signing of the Arusha Agreement on Peace and Reconciliation in Burundi on 28 August 2000.

Part II deals with the particular situation of human rights, especially violations resulting from the armed conflict such as violations of the rights to life, personal freedom and security, freedom of movement and freedom to choose one's residence, summary executions and the situation of displaced persons. The Special Rapporteur also discusses violations of freedom of opinion and expression and freedom of religion and addresses the issues of respect for the rights of the Twa minority, the rights of persons deprived of their liberty and the rights of women and children. Finally, she analyses the situation with regard to economic, social and cultural rights.

Part III addresses developments in the justice system and the strengthening of the rule of law, and, more particularly, the administration of justice and the promotion of human rights.

Parts IV and V consist of observations and recommendations based on the analysis of these situations. The Special Rapporteur notes that without a ceasefire, human rights will continue to be violated by the parties to the conflict; that the protection and promotion of human rights during the transition period is essential; that there is a gap between the people's hopes for a lasting peace and those of a political class involved in power struggles; that the suffering of the population, especially the vulnerable groups, is constantly on the rise due to abuses committed by the military and armed groups; that the commitment made by the international community at the Paris Conference raised many hopes; that the report of the International Commission of Inquiry into the events of 1993 remains a concern for certain actors on the political scene; finally, that national human rights structures have been established.

In addition to the recommendations made in her latest reports, the Special Rapporteur makes further recommendations to the parties to the conflict, to the Burundian authorities and to the international community. She appeals to the parties to the conflict to respect the fundamental rights of civilians, in particular women and children, and asks all armed groups to sit down at the negotiating table in order to put a stop to the hostilities. She commends the authorities for their commitments to the peace process and the steps they have taken to ensure the observance and promotion of human rights, and urges them to pursue those efforts. She encourages them to report all violations, including those committed by military personnel, and to facilitate access for humanitarian organizations to the stricken populations. She also asks the authorities to support policies benefiting women and to help enhance the role played by women in social and political life. She strongly criticizes illegal detentions, in particular those committed by the military. In the social and economic sphere, the Special Rapporteur expresses the hope that projects for job creation and development of traditional health care will be supported. The Special Rapporteur recommends that the international community give its support to the Arusha peace process and encourages the international community to implement the commitments it made in Paris. She asks that it establish an effective policy to combat the proliferation of weapons in the Great Lakes region. It would also be advisable for donors to support policies aimed at promotion of human rights, strengthening of the rule of law and economic and social development in Burundi.

Introduction

1. The present document is submitted to the Commission on Human Rights by Ms. Marie-Thérèse A. Keita Bocoum, Special Rapporteur, pursuant to resolution 2000/20 of 18 April 2000. It supplements the interim report she submitted to the Third Committee of the United Nations General Assembly, in October 2000, after her second mission to Burundi (27 June to 7 July 2000). It covers the period from 1 August 2000 to 31 January 2001 and concerns the general situation in Burundi, in particular the question of human rights, the status of women, the rights of the child and developments in the rule of law. It is based on the Special Rapporteur's mission to Burundi from 18 to 26 January 2001.

2. As on her previous missions, the Special Rapporteur met with the highest political, military, judicial, civil and religious authorities, including the President and the First and Second Vice-Presidents of Burundi as well as the President of the National Assembly. She also had talks with the Ministers for Foreign Affairs and Cooperation; Justice; Finance; Health; Planning; Development and Reconstruction and Reintegration and Resettlement of Displaced and Repatriated Persons. In addition, the Special Rapporteur met with leading political figures who are not members of the Government, including the former President of Burundi and representatives of political parties of all persuasions. The Special Rapporteur met with the President of the Constitutional Court, the Attorney-General, the prosecutor and President of the Court of Appeal of the Province of Gitega; the President of the Bar Association and a number of international lawyers. She met with provincial authorities and officials from national and international associations active in the field of human rights, development and the advancement of women. She also had very fruitful talks with representatives of the diplomatic corps, the European Union and the United Nations system.

3. In the interior of the country, in the provinces of Gitega and Bubanza, the Special Rapporteur visited a prison, a nutrition centre and a displaced persons' camp. She also spoke with the Representative of the Secretary-General of the United Nations for Burundi, in Bujumbura, and with the Special Representative for the Great Lakes region in Nairobi.

4. The Special Rapporteur thanks the President of the Republic and all the persons that she met who provided her with information about the human rights situation in Burundi. She expresses her appreciation to the Government of Burundi, the heads of United Nations agencies and in particular the Director of the Office of the United Nations High Commissioner for Human Rights in Burundi (OHCHRB) and his entire team for their availability and assistance throughout her mission.

5. Based on the information obtained, the Special Rapporteur addresses in Part I of the report the political, economic and social situation, with emphasis on developments in the peace process since the signing of the Arusha Agreement on Peace and Reconciliation in Burundi on 28 August 2000. Parts II and III deal with the human rights situation, in particular violations linked to the armed conflict and the displacement of persons; violations of the rights to life, freedom of expression and personal freedom and security; the rights of persons deprived of their liberty; the rights of women; economic, social and cultural rights; finally, the administration of justice, the strengthening of the rule of law and the promotion of human rights. Parts IV and V relate to observations and recommendations based on these findings.

I. GENERAL SITUATION

6. The Special Rapporteur's mission took place a few months after the signing of the Arusha Peace Agreement slightly more than one month after the donors' conference held in Paris, chaired by the Facilitator, Nelson Mandela, and only a few days after the assassination of President Laurent Désiré Kabila, whose country, the Democratic Republic of the Congo (RDC), is deeply involved in the Great Lakes crisis. All these events have had a considerable influence on the general situation in Burundi.

A. Political situation

7. Before the signing of the Arusha Peace Agreement, the situation in Burundi was extremely tense owing to lack of participation in the negotiations by the two main armed factions - the Forces nationales pour la libération (FNL) and the Forces pour la défense de la démocratie (FDD) - and the opposition of certain radical parties, which have joined together under the Framework Agreement. In September, fighting between the Burundian armed forces and the rebel groups continued to extend to other provinces formerly regarded as calm, such as Gitega in the centre and Cankuzo and Ruyigi in the east.

8. On 30 September 2000, the Facilitator, Nelson Mandela, speaking before the Security Council, held the rebel groups responsible for the killings which had taken place after the two main rebel movements, FNL and FDD, refused to sign a power-sharing agreement. The Council, "deeply concerned" at the continuation of the violence in Burundi, condemned the use of force in resolving the conflict disrupting the country and reiterated its call on all parties to cease hostilities and to participate fully in the peace process. Throughout November clashes between the Burundian armed forces and the rebel groups continued, in particular in the provinces of Bujumbura-rural, Makamba and Rutana, with looting of civilian property.

9. Part of the population of the northern provinces heavily hit by drought and famine emigrated towards the neighbouring countries of Rwanda and Tanzania. During the period under review, according to official sources, thousands of persons from communes in the province of Rutana, on the Tanzanian border in the south-east, were forced to move to the centre of the province due to attacks by rebel groups.

10. Southern Burundi, especially the provinces of Makamba, Bururi and Rutana, remains the most troubled region. The rebels have carried out several attacks which have led to considerable displacement of persons. There has also been heavy fighting in the province of Bujumbura-rural principally Tenga, Mutimbuzi commune, where the rebels have set up a base and bloody clashes with government forces are taking place.

11. In December 2000, the Burundi League for Human Rights reported continuing violence by rebels and government forces in the provinces of Gitega, Cankuzo, Rutana, Makamba and Bujumbura-rural. "The right to life remains the right most regularly violated despite the signing of the Arusha Peace Agreement on 28 August 2000 in Tanzania, which the Burundian people had expected to bring about an improvement in their security." According to the League the consequences of this violence have been poverty, forced population displacements, famine and a continual rise in prices. The League is particularly critical of the Government, which has not

honoured its commitment to take action against misdirection of funds, dishonest management, corruption, etc. It cautions the participants in the peace process "against the danger of granting amnesty for the crimes against humanity and genocidal crimes which have been and are being committed in Burundi". The League also calls for the establishment of an international criminal court for Burundi.

12. Since the Special Rapporteur's last visit, in early July 2000, there has been a slight drop in incidents in the northern and north-eastern provinces, where there have been no active rebel movements since 1996. The improvement in security is due to cooperation between the army, the administration and the people. It is also the result of stricter control at the northern borders and the Rwandan refugees' departure for their country. The incidents which have occurred in these provinces are, rather, due to banditry, a result of extreme poverty aggravated by the unfortunate cycle of drought and excessively heavy rains, which adversely affects production, especially of food crops (beans).

13. In the south and south-east, security is endangered by cross-border movements due to slacker controls at the Tanzanian borders. In addition, at night the rebels reign supreme in these regions, while during the day the same regions are under the control of the military. The situation in Bujumbura city is relatively calm due to a large and permanent military presence, but the situation is still sensitive in most of the major urban centres.

14. The tension throughout the country is also due to the increase in the human and material resources of both the army and the rebels. In October and November 2000, the armed group FNL attempted to establish a presence in the Bujumbura-rural region, around Tenga, probably seeking to destabilize the capital. Heavy weapon attacks by the regular army forced them to disperse and break up into small groups, thus limiting the rebel presence in this area. Rebels remaining in the region have infiltrated the population and continued to carry out guerrilla action in an effort to spread fear throughout the capital. The precarious security situation is due to the fact that the Arusha Agreement was not followed by a ceasefire.

15. During her visit, the Special Rapporteur noted with satisfaction that the forced regroupment camps in the province of Bujumbura-rural and the rest of the country had been permanently dismantled. However, because of the prevailing insecurity in certain provinces, sites for displaced persons continue to exist.

16. Concerning the political situation, the signatories to the Peace Agreement continue to disagree on who shall lead the transition. Pro-Tutsi parties supporting the candidature of Colonel Epitace Bayaganakandi criticize the Government for blocking discussion on this issue, in both Arusha and Burundi.

17. The assassination of President Laurent Désiré Kabila may have an influence on the political situation in Burundi, in particular the course of the negotiations for a ceasefire with the groups that have established themselves in the Democratic Republic of the Congo. At the time of his death, talks between the Presidents of Burundi and the Democratic Republic of the Congo, which had begun in Abuja, Nigeria, on 24 December 2000, had been joined by Jean-Bosco Ndayikengurukiye, head of the armed group FDD, and the President of Gabon in Libreville on 9 January 2001, and negotiations between the Ministers of Defence of the Democratic Republic

of the Congo and Burundi in Nairobi (on 10 and 11 January) had, it appears, resulted in a consensus on principles for disengagement. Another meeting between Kabila and Buyoya had been planned in Yaoundé. All these meetings had signalled the possibility that the conflict would be brought to an end. The political situation in the Democratic Republic of the Congo has produced a climate of uncertainty and a wait-and-see approach in the subregion concerning the future of the negotiations, proving that the subregion is an integral part of the search for a durable solution in Burundi.

18. As she was finishing her report, the Special Rapporteur learned that violent clashes begun by the rebels had taken place on 24 February in Kinama, a primarily Hutu neighbourhood in northern Bujumbura. The FNL's goal in initiating the clashes had been to gain control of the capital and force the Government to negotiate. The fighting has caused the displacement of approximately 20,000 persons from the neighbourhoods of Kinama, Cibitoke and Kamenge. During the same period, attacks by FDD rebels in the collines of Rutovu, province of Bururi, and Gitega, caused mass exoduses. This new outbreak of violence comes at a time when the FNL is experiencing internal dissension as its chief, Kossan Kabura, had just been ousted by one of his deputies.

B. Developments in the peace process

19. On 28 August 2000, the Arusha Agreement on Peace and Reconciliation in Burundi was signed by the Government, the National Assembly, the G7 (alliance of parties said to be pro-Hutu: National Council for the Defence of Democracy (CNDD), Front pour la démocratie au Burundi (FRODEBU), FROLINA, Parti de la libération du peuple hutu (PALIPEHUTU), PL, PP and RPB) and one party from the G10 (alliance of parties said to be pro-Tutsi, Union pour le progrès national (UPRONA), INKINZO, ABASA, AV-INTWARI, Parti pour la renaissance nationale (PARENA) and PRP). The four parties that had refused to sign the text (RADDES, ANADDE, PSD and PIT) ultimately joined the other signatories in September 2000, first the PSD, followed by the other three.

20. With the exception of the National Assembly and the G7, the participants expressed numerous reservations before signing, and the two main army factions, FDD and FNL, refused to participate in the Arusha process altogether. Clashes therefore continued in the field, raising the crucial issue of an agreement without a ceasefire, hence with limited applicability.

21. On 20 September, the summit of heads of State of the subregion, held in Nairobi at the initiative of the Facilitator, Nelson Mandela, to which the two main rebel chiefs, Jean-Bosco Ndayikengurukiye of FDD (who did not respond to the invitation) and Kabura Kossan of FNL, were also invited, was aimed at negotiating a ceasefire agreement among the parties to the conflict. To no avail. The Facilitator and the various leaders present in Arusha gave the rebels one month to sign a ceasefire, under threat of penalties. This demand has remained unheeded to date.

22. From 25 to 28 November 2000, the signatories to the Peace Agreement met in Arusha for a new round of talks. The Arusha Agreement Implementation Monitoring Committee (CSAAP) was established. It comprises representatives of the 19 signatories, the countries of the subregion, the United Nations, the Organization of African Unity, the donors and Burundian

civil society. Benharu Dinka, Special Representative of the Secretary-General of the United Nations for the Great Lakes Region, was appointed President of CSAAP. Having been unable to find a solution to the problem of leadership during the transition period (a genuine stumbling-block for the peace process), the participants discussed the rescheduling of the transition and technical corrections to the Peace Agreement.

23. Six names have been proposed as potential candidates for leading the transition: current President Buyoya, former President Bagaza, Domitien Ndayizeye of FRODEBU, Térence Nsanze of ABASA, Albert Mbonrane of CNDD and Epitace Bayaganakandi, supported by six pro-Tutsi parties and the Framework-Agreement signatories, who did not participate in the Arusha negotiations.

24. On 30 November 2000, the National Assembly ratified the Arusha Agreement.

25. On 8 December 2000, Charles Mukassi, the leader of UPRONA, opposed to the regime in power and to the Arusha process, took issue with the CSAAP, which he called an "organ for the recolonization of Burundi" because it is a committee led by foreigners which has control over all decisions and commitments by national institutions. He holds that the Committee's powers are excessive.

26. One of the major difficulties in implementing the Agreement is that, as it was signed without a ceasefire, it runs the risk of jeopardizing the first transition period, which is to end on 26 February 2001. Hopes for a ceasefire with the rebels after the signing of the Agreement remain tentative, as the facilitation team has not yet been able to convince the two main rebel groups to sit down at the negotiating table. In addition, the numerous reservations expressed by a large number of signatories considerably weaken the scope of the Agreement. The issue of who shall be chosen to lead the transition institutions, with no mechanisms provided for in the Agreement, seems to overshadow all the others, including that of the ceasefire. To be sure, by ratifying the Agreement on 30 November 2000, the National Assembly provided the Agreement with national scope before the donors' conference in Paris, but the current situation gives strong reason to believe that its implementation schedule will not be strictly respected.

27. Some persons who met with the Special Rapporteur expressed concern that establishing transition institutions before a ceasefire was achieved might lead to a continuation of the war. Some said they favoured a general amnesty for combatants and refugees, while others referred to the report of the International Commission of Inquiry (S/1996/682) as an argument against a temporary amnesty. They hold that trials should take place before the amnesty is put into effect.

28. The Special Rapporteur was informed that the Arusha negotiations did not include discussion of human rights violations. The human rights issue was, however, raised by the United Nations office in Burundi, at the recommendation of OHCHRB and Amnesty International.

29. CSAAP held its first session from 15 to 19 January 2001; the next session should take place in March 2001. It was decided to set the number of members of the Executive Council (responsible for the routine monitoring of the implementation of the Agreement) at 13, including 3 from the G7 (predominantly Hutu), 3 from the G10 (predominantly Tutsi), 2 political

independents, 1 from the Government and 4 non-Burundians representing the United Nations, the Organization of African Unity, the regional leadership and the donors). In reality, the Executive Council never came into being, due to the reluctance of certain signatories to have it established in Bujumbura.

30. Despite the obstacles cited earlier (lack of ceasefire, rebel groups failure to participate) there has been encouraging progress, relating principally to the Government's initiative of establishing contacts with the rebel groups, but also and above all, a greater and more realistic mobilization of the international community through the Paris Conference.

31. Arusha-related meetings with the representatives of the FDD and FNL armed groups which took place in Dar-es-Salam, in Majorca (with the G7 at the beginning of January 2001) and in Libreville had indicated the possibility that those groups might participate in the Arusha process, in order to take part in discussion on the ceasefire and the transition institutions.

32. When asked this question, the Burundi authorities told the Special Rapporteur that the position of the Government remained the same after the death of President Kabila and that it still hoped to continue the negotiations, as the lack of a ceasefire was blocking the implementation of the Arusha Agreement's five protocols.

33. From 22 to 26 January, a new session was held in Arusha, at which the signatories divided into two working groups, one on the ceasefire and the other on the transition institutions.

C. Economic and social situation

34. The economic and social situation has been deteriorating constantly; the economic indicators are alarming, and the northern provinces are plagued by drought and famine. In the cities, the middle classes are becoming increasingly impoverished.

35. On 27 September 2000, the United Nations system launched its emergency plan for Burundi, at an estimated $107.5 million. It emphasizes the return and resettlement of the refugees and internally-displaced persons, rehabilitation and reconstruction and economic and social development. The Facilitator, Mr. Mandela, speaking before the Security Council, stressed the lack of direct foreign investment and the lack of resources to assist the poorest population groups.

36. On 29 November 2000, the United Nations system in Burundi issued a press release containing its "Consolidated Appeal 2001", in the amount of $101,961,638, to cover emergency humanitarian needs and support "Burundian society's transition towards peace and development".

37. On 4 December 2000, one of the main armed movements, FNL, issued a press release condemning the holding of the Paris Conference, which in its view would strengthen the regime in power. The other armed movement, FDD, also criticized the Paris Conference in an open letter to the Secretary-General of the United Nations.

38. On 8 December 2000, a collective of 37 international non-governmental organizations working in Burundi appealed to the international community to "make an immediate commitment to providing genuine support for development in this country", in an effort to revive development.

39. The main event during the period was without doubt the holding of the Donors' Conference, on 11 and 12 December 2000 in Paris, at the initiative of the Facilitator, Nelson Mandela. It was attended by the 19 signatories to the Peace Agreement. It provided yet another occasion for the Facilitator and President Chirac to appeal to the rebels to lay down their arms and join the peace process. The Conference showed that a consensus does exist among the donors with regard to resumption of development aid. Priority areas of action are poverty alleviation, education, health, good governance and support for the justice sector. Advancement of women accounts for only 0.34 per cent of the cost of the three-year priority programme (2001-2003) submitted by the Ministry of Planning of Burundi.

40. During her stay, the Special Rapporteur was informed that the 2001 State budget, which amounted to 130 billion Burundi francs, was approved on 17 January 2001. The defence share of the budget remains very high: more than 30 per cent of the total. Foreign debt amounts to approximately 700 billion Burundi francs ($1 billion) and domestic debt, 52 billion Burundi francs.

41. Corruption remains one of the country's major problems. It often goes unpunished by the justice system. Measures have been taken to combat corruption, with plans to establish an accountants' association, the establishment of neighbourhood tax centres and the strengthening of monitoring in general.

42. On the whole, the social situation has deteriorated since the Special Rapporteur's last visit in July 2000. Burundians, especially the most disadvantaged, have for several months been experiencing a malaria epidemic, which resulted in more than 640,677 casualties in December 2000 alone.[1] Large-scale impoverishment due to the drought and the drop in production are leading to an increase in diseases such as cholera and AIDS and widespread malnutrition, all of which are taking on unprecedented proportions.

II. HUMAN RIGHTS SITUATION

43. During the period under review, the human rights situation did not improve substantially. Violence is continuing in the same provinces (Bujumbura-rural, Bururi, Makamba, Ruyigi and Rutana) and tending to spread to others (Cankuzo). The principal human rights violations concern fundamental rights (right to life, to physical integrity and to personal freedom and security), freedom to choose one's residence, freedom of expression and economic, social and cultural rights. The rebel attacks, retaliations by the military and repeated outbreaks of fighting are continuing to claim casualties among the civilian population.

A. Violations of the right to life

1. Violations attributed to agents of the State

44. The Special Rapporteur was informed of several violations attributed to members of the military and other agents of the State. On 19 August 2000, members of the military allegedly killed about 30 people in the Nyambuye area of Isale commune in the province of Bujumbura-rural. Conflicting reports place the number of deaths at 62, 118 and even more. A list with the names of 77 alleged victims was submitted by OHCHRB to the Government Commission on Human Rights.

45. In August many civilians were killed and injured in incidents in Bujumbura-rural province, apparently at the hands of members of the military who often carry out revenge attacks, accusing the population of abetting the rebels.

46. On Thursday 7 September 2000 three members of the military, for reasons unknown, allegedly beat up and then shot to death Juvénal Habonimana, a shopkeeper from the Kinama district of Bujumbura-Mairie, after demanding to see his identity papers.

47. On the night of 28 to 29 September a group of armed rebels attacked the Gare du Nord military position in the Kamenge area (Bujumbura-Mairie). The following morning the army sealed off the area, in order, according to the official version, to search for escaping rebels. At least 26 people, including women and children, were allegedly massacred by members of the military. Military authorities accused the rebels of carrying out these killings.

48. It is alleged that on 2 October in the Magarure sector of Martyazu area in the Mubimbi commune, members of the armed forces cold-bloodedly killed five people working in the fields.

49. The Special Rapporteur was informed of the assassination, on 3 October 2000, of the Italian priest Antoine Bargiggia of the "Friends of the Poor" community at Kibimba in the province of Gitega. He had been living in Burundi for twenty years and worked with the NGO, Jesuit Refugee Service.

50. On the same day, in Gitega, Mrs. Nahimana Caritas, a widow, was murdered at her home along with her two children by sergeant René Rukemangani. Mrs. Nahimana was director of the Gitega paramedical school and legal representative for a local NGO, Sangwe kibondo.

51. On 12 October 2000, following fighting which took place on 7 October 2000 between rebels and members of the military in Ryansoro commune, Gitega province, members of the police force were alleged to have killed civilians, including the Murama, Muyuga and Nykaramba colline chiefs. They are also alleged to have destroyed the Murama parish school and the school belonging to the Pentecostal Church in Nyakarambu, and to have carried out lootings.

52. On 9 November in Musongati commune, Rutanac province two civilians accused of collaborating with the armed groups were allegedly executed by members of the military.

53. The Special Rapporteur was informed of the arrest and execution of Kinoteri Eliazar at Rukoko on 5 December 2000. Troops from the Gatumba camp suspected him of collaborating with the rebels.

54. On 13 December 2000, in the Rubirizi area of Kirundu province, members of the military are alleged to have killed Alexis Bakuzarusaku as he returned home, after asking him where he was going.

55. The Special Rapporteur was informed of seven civilian casualties due to accidents caused by anti-personnel mines in the Kivoga area, Mutimbuzi commune, Bujumbura-rural province between 12 and 18 December. The mines had been laid by members of the military to prevent rebel incursions but the local population had been unaware of their presence.

2. Violations attributed to rebel groups

56. About 15 people are said to have been killed and about 10 others seriously injured following a rebel attack in the province of Cankuzo on the night of 3-4 August 2000. In the same province, between 17 and 18 August 2000, rebels are alleged to have killed 10 people, burned down several houses and destroyed a large number of cattle.

57. On 5 August 2000 at Nyabiraba, on national highway 7 about 20 kilometers from Bujumbura, a vehicle carrying the handball team of the national military academy (ISCAM) was ambushed by rebels using rockets. The official death toll was about 30 (mainly members of the armed forces plus three women and two civilians). It is alleged that some of the victims were finished off with bullets and machetes. On 5 August three civilians were killed in same way in Kanyosha (Bujumbura-Mairie).

58. On 4 September a rebel group is alleged to have killed one person and injured several others in an ambush in Makamba province while another group killed two civilians in the Cibitoke area (Bujumbura-Mairie). On 23 September 2000 an attack by rebels is said to have caused the death of 11 people in Bujumbura-Mairie.

59. On the night of 1-2 November a group of rebels attacked the market in Gatereni, Gitanga commune, Rutana province, looting shops and killing two people. In the same month, in Makamba province, 12 civilians were killed by rebel forces during fighting with members of the military. On 25 November two people died during a rebel attack in Bukemba commune, Rutana province.

60. A very large number of killings occurred in December. On 22 December 2000 rebels ambushed a civilian transport vehicle on national highway 3, killing four. On 28 December 2000 rebels laid an ambush on national highway 1 in the area close to Mageyo (Bujumbura-rural) at the same spot where they had killed a colonel and his son two weeks earlier. They targeted three vehicles, a passenger bus coming from Rwanda, a truck and a car. Initial estimates spoke of 21 killed and 20 injured, some critically.

61. It should be pointed out that, during this entire period, in spite of the Arusha Agreement, innocent people have been killed by rebel groups. The areas of violence remain the same: Bujumbura-rural, Makamba, Rutana, Ruyigi and Cankuzo are the provinces where the right to life has been flouted the most.

3. Violations attributed to persons unknown

62. The Special Rapporteur was informed of plots of land and houses being looted by about 10 men dressed in military uniforms in the Muramvya district (Bujumbura-Mairie). The looters are also suspected of beating civilians, including women and children. In the group were young boys, under orders to carry the looted goods.

63. On 23 August 2000 at Buyenzi market (Bujumbura-Mairie) a man threw a hand grenade and ran off, causing 32 deaths, according to official figures, while two others died later in hospital as a result of their injuries.

64. On the night of 15-16 September 2000 armed men attacked the districts of Gikizi and Songa, Kamenge area (Bujumbura-Mairie), killing six people and injuring another four. They also looted shops and houses.

65. On 22 September 2000 a group of armed men attacked the Mutakura district, Cibitoke area (Bujumbura-Mairie), killing 11 people and injuring 2.

66. On the night of 30 to 31 October 2000 unidentified men attacked homes in Kinama (Bujumbura-Mairie). According to one of the victims, the assailants were soldiers disguised as rebels.

B. Violations of the right to personal freedom and security

67. The Special Rapporteur was informed that members of the armed forces and armed groups had made the people carry out forced and degrading labour and contribute to financing the war effort.

68. Despite some improvement in the situation in prisons, there are still cases of ill-treatment in the police cachots. In the cachots in Bujumbura and in the interior, for example in Muramvya, inmates are ill-treated by the judicial police. This information is brought to the attention of the competent authorities, who acknowledge that violations take place and often promise to investigate and take measures, but to no effect.

69. There has been very little improvement with regard to illegal arrests and detentions. In the various police cachots in Bujumbura, many of the detainees were arrested illegally, without a warrant and sometimes violently or have been held in custody for longer than the legal period. The legal situation in the country's various prisons continues to cause concern as most of the detainees (approximately 70 per cent) are under pre-trial detention.

70. The Special Rapporteur was informed that the number of minors according to the prison administration does not correspond to the number identified by observers from OHCHRB during their prison visits.

71. Several cases of torture were communicated to the Special Rapporteur. Evariste Ntibishimirwa and Luc Nyabenda are alleged to have been tortured by the judicial police of the parquets in Ngozi while undergoing questioning.

72. On 18 August 2000, Pierre Claver Hajayandi, President of the Burundian Confederation of Trade Unions (COSYBU) was arrested and detained at the offices of the Special Investigations Brigade (BSR). On 19 August 2000, Diomède Rutamucero, President of the PA-Amasekanya self-defence organization, was arrested at his home. He was released on 29 August 2000 after paying a fine of 100,000 Burundi francs, while the President of COSYBU was transferred to the prison in Mpimba. On 23 October 2000, following a verbal summons, Diomède Rutamucero was again arrested and sent to prison were he was held for four weeks.

73. On the morning of 20 October, about 100 members of the military are alleged to have taken to an unknown destination about 300 people, mostly from Gasenyi near Tenga, who had taken refuge in the Catholic parish of Kamenge (Bujumbura-Mairie).

74. The Special Rapporteur was informed that members of the military allegedly forced people from the outlying areas of Bujumbura (58 people from Kinama, 200 from Buterere, 54 from Cibitoke and 68 from Gihosha) to risk death by going to Tenga, a combat area that was probably mined, to undertake forced labour.

75. The right to freedom and to security continues to be regularly flouted. Cases continue to be reported of detention in military camps or by gendarmerie rapid action forces. In Bujumbura-Mairie province these arbitrary and illegal arrests are allegedly often followed by "disappearances". It would seem that the "disappeared" are held in illegal detention centres such as that of the gendarmerie rapid action forces in Gatoke or at the Third Battalion's Socarti Camp in Kamenge. In Gitega, the Special Rapporteur was informed of cases of people being kept prisoner in a container for several days by members of the military in Burora. When asked about this by the Special Rapporteur, the prosecutor in Gitega admitted hearing about it on many occasions, but said it was pure fiction.

76. The Special Rapporteur was informed of the release on 1 September 1999 of cadet officer Chartière Nyandwi, charged in connection with the Mutamba incident of 2 and 4 November 1998 in which a large number of people were killed, including women and children. Having been found guilty, he was being detained in Mpimba prison. It is important that the circumstances surrounding his release should be elucidated since, unfortunately, in many cases directly or indirectly involving members of the armed forces, sentences under Burundian law are not carried out.

77. OHCHRB has followed closely the case of Sinagaye Epithas, who was tried for rape by the Court of Major Jurisdiction in Bujumbura-Mairie. The court cleared the accused at the end of a trial that was neither fair nor conducted according to due process and the public prosecutor's

office in Bujumbura-Mairie did not launch an appeal despite the totally irregular judgement. Many aspects of this case remain unclear, not to mention the pressure exerted on the person following this case at the office of the United Nations Development Programme. The acquittal by the court represents an encouragement to all potential rapists.

78. On 10 November 2000, five members of PARENA (le Parti du redressement national) involved in the case of the "attempt on the life of the Head of State" were released on parole.

2. The attack on a Sabena aircraft

79. On 4 December 2000, a passenger plane belonging to Sabena airlines was fired on as it approached Bujumbura airport. The State Public Prosecutor set up a commission of inquiry. A technical report has already been submitted to the commission. Also, 11 people have been detained in the course of the inquiry, of whom 4 were later released.

80. On 22 January 2001, the Special Rapporteur asked the State Public Prosecutor for permission to visit the detainees to ensure that their physical integrity and human rights were being respected. The visits to three detention centres, those of the special traffic police (STP) under the Ministry of Defence, the public security police (PSP), under the Ministry of the Interior and the judicial police of the parquet (JPP) under the Ministry of Justice, took place in the presence of the State Public Prosecutor and the chairman of the commission of inquiry.

81. Despite the presence of the State Public Prosecutor and Mr. Niyongabo, Commissioner-General of the judicial police of the parquet and chairman of the commission of inquiry, Major Fabien Ndayishimiye, Bujumbura District Commander, refused to allow the Special Rapporteur to visit the PSR cachots. This unjustified refusal blatantly contradicts the terms of reference of missions by Special Rapporteurs of the Commission on Human Rights, which states that Governments that invite them to their country must give them access to all prisons, detention centres and interrogation centres.

82. The Special Rapporteur therefore notes that detainees at the STP are held incommunicado. She was unable to check on how many detainees there were, their identities, the conditions in which they were being held or their physical state. She was subsequently informed that Bernard Barayegeranije and "Mama Richard" Niyikundana were allegedly being held in these cachots. The police authorities say they have no knowledge of Nathanael Bisesere.

83. The Special Rapporteur was able to visit the cachots at the judicial police of the parquet. She spoke with Seraphine Nduwimana and Simon Nani who were arrested on 12 January 2001 and 4 January 2001 respectively. Both detainees said that the food was poor but they had not been tortured. Mrs. Seraphine Nduwimana, suffering from malaria and diabetes, said that she had received treatment and was convalescing. There were unconfirmed reports that one of those detained during the inquiry, Mr. Ntirampeba, who was released on 17 January 2001, was murdered by persons unknown on 24 January 2001.

84. The Special Rapporteur was also able to visit the cachots of the PSP to talk with Alfred Nteziyoruva, also known as Ndagiye (arrested on 4 January 2001), Barnabé Barayegeranije and Rémégie Ntuyahaga (arrested on 5 January 2001) who was transferred from the PJP on 24 January 2001. According to information received, Mr. Tite Mpawnimana has already been released. The detainees said that they had not been tortured.

C. Summary executions

85. The Special Rapporteur learned that two members of the military who had been found guilty of murder were condemned to death and executed on 19 October 2000. They were sergeant René Rukemanganisi, accused of the murder of Mrs. Caritas Nahimana and her two sons, and Napoléon Manirakiza, accused of the murder of Brother Antoine Bargiggia of the Mutoyi crafts centre (see paras. 49 and 50). The Special Rapporteur deplores the imposition of the death penalty in such trials, in which the accused received no help and did not have sufficient time to prepare their defence, far less any right of appeal. The material and human problems facing the Burundian legal system make it difficult, if not impossible, to investigate, prepare proper cases, have a fair trial and carry out the sentence all in two weeks (the crimes took place on 3 October, sentence was handed down on 18 October and the execution took place on 19 October). This case deeply shocked public opinion at home and abroad, including some members of the Government whom the Special Rapporteur met. The Minister of Human Rights is preparing a protest note on the issue.

86. The Governor and the Commander of the Gitega military region, whom the Special Rapporteur met, acknowledged that the accused had not received legal aid, but stated that they had not requested it. They added that the accused confessed their crimes and offences, but had expressed no regret, indeed quite the opposite. The execution, which both provincial officials approved, should serve as an example to potential criminals because such vile crimes, especially when committed by members of the military, demanded the imposition of an exemplary penalty.

D. Violations of freedom of opinion and expression

87. Freedom of the press is restricted by the provisions of the law on the press, which require press articles to be submitted to the Government censor four days before publication. This requirement, according to press representatives who met with the Special Rapporteur, is a hindrance to freedom of expression and the development of a free press.

88. There are two arguments to illustrate how the press is muzzled. First, the Government is accused of failing to promote the private independent press organs, which as a result lack adequate funding. The Government owns the only newspaper which appears regularly (Le Renouveau), as well as most national radio and television stations, whose broadcasts consist mainly of accounts of Government activities. The financial resources of the independent press are so inadequate that some journalists, during interviews with the Special Rapporteur, have called for a "Marshall Plan" for the press in Burundi.

89. Secondly, the numerous acts of harassment suffered by journalists at the hands of the police restrict freedom of the press. For instance, in September 2000 the managing director and a staff journalist of an independent newspaper, Net Press, were arrested, imprisoned and questioned about their sources in the course of an inquiry concerning the brother of a trade union leader.

90. Representatives of the movements opposed to the peace process told the Special Rapporteur that the Government does not respect their freedom of opinion and expression. They say their right to meet and demonstrate has been seriously violated by the authorities. According to them, the members of the Framework Agreement are unemployed and legal proceedings have been taken out against the leaders of parties and movements belonging to it. The media are said to be afraid to publish or transmit declarations and policy statements of the Framework Agreement, for fear of reprisals (the director of Net Press having been imprisoned for reporting on their activities). The leaders of the Framework Agreement have been arrested several times, and the President of the PA-Amasekanya self defence organization, Diomède Rutamucero, has been in prison more than 10 times since the beginning of the Arusha process.

91. During the Special Rapporteur's visit to Burundi, Diomède Rutamucero refused to respond to a summons from the National Registry (the national intelligence service answerable to the President of the Republic). He took refuge on 21 January at OHCHRB and has remained there ever since.

92. The Special Rapporteur also noted that the law on political parties was highly restrictive; the political parties cannot conduct activities at the local level. They are also subject to pressures intended to restrict their freedom of expression.

E. Freedom of religion

93. Freedom of religion is generally respected by the Government of Burundi. According to representatives of the religious communities, they enjoy the freedom to meet, to worship and to express their beliefs. Some of them even said there had been an improvement in the human rights situation in Burundi. However, the representative of the Muslim community complained that the Muslims did not have access to the site they had purchased for a Muslim cemetery.

F. Freedom of movement and freedom to choose one's residence

94. Freedom of movement is limited by the war situation, which increases insecurity on the roads. The Special Rapporteur was very pleased to note the complete dismantling of the forced regroupment camps. However, the numerous attacks by rebels and consequent reprisals by the military place restrictions on the population in choosing where to live. Many Burundians are compelled to live in displaced persons camps, in appalling conditions. Others have no other choice than forced exile outside Burundi, often in neighbouring countries.

95. Measures have been planned for some time, in the context of reconciliation and peace-building, to organize the return of those who were compelled to leave their country. On 4 December 2000 experts from Burundi, Tanzania and the Office of the High Commissioner

for Refugees met in Bujumbura to consider a draft tripartite agreement on the voluntary repatriation of Burundian refugees living in Tanzania. According to the Government representative, 550,000 Burundians have taken refuge in Tanzania. Under the emergency plan, there are three points of entry and three possible scenarios: the repatriation of between 18,000 and 51,000 people a month, or the "doomsday scenario" with refugees coming back through several crossing points at the same time, which would require massive resources.

G. Situation of internally displaced persons

96. The Special Rapporteur has been informed of the existence of 265 sites in Burundi at which internally displaced persons have gathered, in more or less precarious circumstances. The Arusha process, and especially the establishment of an international judicial Commission of Inquiry and a national Truth and Reconciliation Commission, will make it easier for these people to be reabsorbed. On the other hand, some of those who have been living on these sites for several years have opted for the solution of "villagization".

97. In the province of Bubanza, which the Special Rapporteur visited, the major population displacements which took place from 1995 onwards resulted in the people gathering in the commune centres and in the town of Bubanza. These displacements affected about 200,000 people and 65 sites. There are only nine left now, because most inhabitants of the sites have returned to their ordinary homes, or to other fixed places of residence. A frequent problem is the destruction of houses, which forces people to live in ramshackle forms of shelter, for lack of adequate means. In the province of Bubanza children have missed three to four years' schooling due to the destruction of schools.

98. The Special Rapporteur visited two sites whose situations are very different, Mpanda and Gihanga. The Mpanda site has existed since 1993 and the people there come from all ethnic groups. Although 4,000 people are living there, the authorities believe that in less than three months this site will disappear. The existence of a primary school and a secondary school for the commune encourages the ongoing process of "villagization". The Gihanga site is more precarious and does not offer the same advantages. It is housing Hutus and Twa who are left to themselves, living in appalling conditions similar to those already witnessed in the former regroupment camps. The people, especially the children, suffer from severe malnutrition. Old people are left to die, as they have no means of reaching the health centres, which are too far away from the site. Most of the dwellings are huts built of straw and banco, and in these families have been surviving for three or four years. There is no sign at Gihanga of the efforts made at Mpanda, and it is impossible not to conclude that treatment of the two sites has been unequal.

99. Humanitarian assistance remains vital for these people, but the crucial issue is access to aid. The second obstacle is the lack of adequate funds to meet emergency needs for food and health care. It is therefore fortunate that the Paris donors' conference has considered this question.

H. Violations of minority rights: situation of the Twa

100. The situation of the Twa minority deserves special attention, but unfortunately does not always receive it. The Twa are certainly the oldest element of the Burundian population, as in

other countries of the Great Lakes region; they now represent about 1 per cent of the population. This minority tends to be forgotten during the various debates and discussions on solutions for Burundi, whereas in proportional terms, it has just as many victims, because of the widespread nature of the conflict. The Twa seem to be kept on the fringes of economic, social and cultural development, while it is increasingly difficult for them to engage in their traditional activities (pottery for the women, hunting for the men). They live an isolated life, without access to Government services, especially education and health, and take very little part in political decision-making (there is only one Twa representative, a woman, in the National Assembly). Except for a few non-governmental organizations and religious bodies, their cause does not excite much interest.

I. Violations of the rights of persons deprived of their liberty

101. The situation of persons deprived of their liberty has continued to improve as a result of reforms of the judiciary, improvements in conditions of detention, which have extended to other prisons, and support by the Government, human rights associations and humanitarian organizations. Even so, many irregularities persist. These are related to the numerous failures to implement the new Code of Criminal Procedure and the continuing instability and ill-treatment in places of detention. There are high rates of arbitrary arrest and long-term detention. There have been no significant changes in this situation.

1. Prisons

102. The total number of prisoners is about 8,500. The reduction of about 1,000 in the prison population is due partly to the efforts of the Ministry of Justice, including the mobile teams which have been sent to the field to regularize the situation of those in pre-trial detention by applying the provisions of the new Code of Criminal Procedure, and partly to early release. The trend has also been encouraged by the OHCHRB legal assistance programme and by the efforts of various partner organizations such as Lawyers Without Borders. However, the new Code of Criminal Procedure is more respected in the country at large than in the capital, where pre-trail detention may sometimes last several months. The explanation lies, admittedly, in the lack of material resources, but doubtless also in some cases in deliberate foot-dragging.

103. The Special Rapporteur visited the prison at Gitega, built in 1926 with room for 400 inmates. At the time of her visit there were 1647, including 1272 pre-trial prisoners, 19 prisoners sentenced to death, 25 minors, 46 women and 9 babies. Over 50 per cent of the inmates (764) are pre-trial prisoners whose situation is connected with the 1993 "crisis". The proportion among convicted prisoners is the same, 239 out of 435. Some of the prisoners have allegedly been sentenced to death in the absence of any lawyer and/or witnesses. Others have gone far past the deadline for dealing with their cases, which may run up to five years. At Gitega, minors are separated from adults only at night: they are in a cell measuring 20 m^2. Of the six minors whom the Special Rapporteur met, four had appeared in court only once and did not have any legal assistance. Pregnant women had apparently been held for weeks in the cachot in appalling conditions. Finally, prisoners were said to have been tortured and maltreated during interrogation. The deacon Kamana, who was arrested in September 1996 as a suspect in the murder of the Archbishop of Gitega, appeared in court for the last time in July 1999. His file is still open and he has never been able to see it. Such cases are unfortunately very common.

104. The prison has a health centre with five nurses, and is visited by a doctor once a week. The Gitega prison also contains young children who have passed the age at which they are allowed to remain with their mothers, but who are desperately awaiting a solution to their problem. The Gitega prison is four times over its capacity, which makes the prisoners' living conditions very difficult. The daily food ration is quite inadequate, but it is the same as in the other prisons in Burundi: 300 grammes of beans and 300 grammes of manioc flour. However, of the three prisons visited by the Special Rapporteur since she began her visits to Burundi, the one in Gitega has the worst conditions of detention. Prisoners walk about in the muddy courtyard in rags and barefoot; when the Special Rapporteur visited, they seemed to be rigid with cold and hunger, as they were not eating every day and had no blankets to protect them from the cold.

105. The number of convicted prisoners is still much below the number of pre-trial detainees. However, there are still more than 500, of which 90 per cent are Criminal Division cases. The public prosecutor's offices have also made progress in dealing with prisoners' files, thanks to the mobile units of the Ministry of Justice. As the majority of the files have been dealt with by these units, only 30 remain.

106. The Special Rapporteur was given information about the situation in other prisons in Burundi, especially those in Ruyigi, Ngozi, Mpimba, Muramvya, Rutana and Rumonge. On 14 November 2000 there were 259 detainees in the Ruyigi prison, including 117 convicted prisoners, 140 pre-trial prisoners and 3 minors, one of whom had been convicted. Apparently, the main problem in this prison is the position of detainees whose cases are heard by the Cankuzo Court of Major Jurisdiction; fewer than one third of these prisoners have been tried. By comparison, the prisoners whose cases are dealt with by the Ruyigi prosecutor are all in a regular situation, and are more often convicted than pre-trial prisoners.

107. On 21 November 2000 the men's prison at Ngozi had 2,258 inmates, of whom 2,040 were pre-trial prisoners (90.34 per cent), and 218 were convicted prisoners, including 7 individuals under a death sentence and 16 minors. As for the Ngozi women's prison, 52 persons with 11 babies were in detention, of whom 28 were convicted prisoners and 24 were pre-trial prisoners as of 11 October 2000.

108. At the central prison of Bujumbura, Mpimba, on 30 November 2000 there were 2,474 inmates, including 454 women and 66 minors. There were 1,589 pre-trial prisoners (64.22 per cent) and 885 convicted prisoners, of whom 234 were under a death sentence. During the month of November, there was a significant increase in the number of those condemned to death, which in turn increases the risk of prison conditions deteriorating (see paras. 113 and 114 of document E/CN.4/2000/34).

109. In the Rumonge prison, there are many impediments to the proper administration of justice. The prison is too far away from the prosecutor's office at Bururi, which itself has only five prosecutors. However, this does not explain why many pre-trial detainees in this prison have been virtually forgotten for nearly a year.

110. The prison situation as reported at the end of November 2000 showed little change as far as numbers of inmates were concerned. However, by comparison with previous months the

population of the Mpimba and Gitega prisons had fallen, and in the Ngozi men's prison it had increased. The legal situation of those held in the Muramvya prison had improved, and for the first time the number of convicted prisoners exceeded the number of pre-trial prisoners. The same was true in Rutana, Bubanza and Rumonge. Health conditions in the prisons were still very poor, but there has been a drop in mortality in spite of frequent epidemics.

2. Other places of detention

111. It has been brought to the knowledge of the Special Rapporteur that out of 44 cachots run by the police, the public security police, the Special Investigations Brigade (BSR), and the judicial police, including those in the regions, provincial centres and Bujumbura-Mairie, which were visited by OHCHRB between August and November, only 12 were regularly applying the new Code of Criminal Procedure. Arrests and arbitrary or unlawful detentions are continuing, mainly at Bujumbura-Mairie where the legal time limit for holding persons in custody (14 days) is hardly ever observed. On the other hand, elsewhere in the country officers of the judicial police have been attempting to keep to the legal time limit.

112. Cases of cruel, inhuman or degrading treatment have been noted in some cachots: torture, deprivation of food and appalling conditions of hygiene.

J. Rights of women

113. Acts of violence and discrimination against women are continuing, although they are rarely mentioned. The police do not often intervene in domestic disputes, and the media rarely report acts of violence against women. Women suffer discrimination in the implementation of the law and in society. They rarely go to court to claim their rights, because of social pressure or simply out of ignorance. The recommendations made by women at the meeting organized by the United Nations Development Fund for Women (UNIFEM) on 17 July 2000 in Arusha were not taken into consideration when the agreements were signed. The Arusha Agreement Implementation Monitoring Committee has only 3 women among its 29 members. The situation of women today has not changed much from that described by the Special Rapporteur in her report to the General Assembly last October (see A/55/358, paras. 90 to 101).

114. Widows are marginalized, prone to illness because of their precarious living conditions, and have no inheritance rights. They are bound to face problems when they return to their usual places of residence, especially in recovering land, and lack the financial means to carry on activities which would help them to integrate into society. Associations and non-governmental organizations which dedicate themselves to improving the conditions of women and which are working for reconciliation and a solution to the conflict in Burundi have little impact, because their work is concentrated more on the towns than on the countryside.

115. The bill on succession and marital property schemes is still on the work programme of the Ministry of Justice for 2001, but it has not yet even been tabled for debate in the Council of Ministers. Moreover, awareness-raising among women, especially rural women, in support of the bill has been slowed down for lack of funds. However, women in the National Assembly and the law enforcement agencies have made it their goal to have the bill passed into law by the end of 2001 (see A/55/358, para. 99).

116. Women's access to education is restricted by a number of obstacles, including the school registration fee, called the "minerval", and the reduction in school classrooms. Girls also cease studying for reasons linked to tradition; it is necessary to reverse this trend by encouraging and supporting women's access to higher education. Women should also be trained in areas other than agriculture, especially business. It transpires that women were not consulted, or only to a very limited extent, in planning the Paris donors' conference; nor were they told of the outcome of the conference, although they are the bedrock of the country's economy. Women are victims of rape, especially by soldiers and members of armed groups. There are cases of polygamy, and women have few means of resisting, being ill-informed of their rights.

117. Several measures have been planned to improve the condition of women. By the end of March 2001, a national platform headed by Domitile Barancira, President of the Constitutional Court, will bring together all Burundian women irrespective of political, regional or ethnic loyalties. The purpose will be to propose joint projects for the development of Burundian women. Unfortunately, the plan is already facing financial difficulties.

118. The public authorities have decided to dedicate the year 2001 to the programme for the advancement of women. In January 2001, the Government submitted its report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW). This report traces the spread of AIDS in Burundi and predicts that women's life expectancy will fall from 60 to 39 years by the year 2010. The report also points out that work to improve the situation of women in Burundi must be focused mainly on rural women, who comprise 90 per cent of the female population. CEDAW experts identified the remaining areas of conflict between Burundian law and the provisions of the Convention, and put questions on combating stereotypes through education, on the structure of employment in agriculture and on economic independence for Burundian women. OHCHRB, UNIFEM and the Burundi Human Rights League (Iteka) are coordinating their efforts in the field of legal assistance.

K. Rights of children requiring special protection

119. The crisis that has been disrupting Burundi since October 1993 has intensified the plight of children and the precarious nature of their situation. Children have been killed, wounded, tortured, separated from their families and traumatized by the acts of violence they have witnessed. Many children have been forced to live alone or with relatives or foster families, in camps for displaced persons or refugees.

120. The damaged children found in Burundi today are war orphans, children separated from their families, children orphaned by AIDS, street children, children in conflict with the law, disabled children and displaced and repatriated children. Weak and helpless, such children account for the majority of those requiring special protection. There is no doubt that half the 800,000 internally displaced persons are children and that 180,000 Burundian children have taken refuge in Tanzania.

121. It is difficult to calculate exactly how many orphans there are, but it is estimated that approximately 25,000 children have been orphaned as a result of the crisis, while UNAIDS has estimated that 160,000 children have been orphaned by AIDS. Some are being looked after by close relatives or foster families, but nearly 4,000 children are said to have been regrouped with

their siblings in families headed by minors. In 1999, at the UNICEF sub-regional conference at Kigali, it was estimated that there were 7,000 such children in Burundi while 10,000 children separated from their families were said to be living in Tanzania. The number of street children increases daily: there are now 1,728 unsupervised children in the towns of Bujumbura, Gatumba, Gitega, Kayanza, Muyinga, Ngozi and Rumonge; 1,006 children have been provided with supervision in the same towns. This figure, added to that of the homeless children in the collines, would put the overall figure for street children in Burundi as a whole at about 5,000.

122. Disabled children[2] are another cause for concern; there has been a marked increase in cases because of physical trauma, but their exact number is not known. It seems high considering that there are 959 reported cases in the 14 centres throughout the country. In order to help such children, the Government of Burundi, with the support of UNICEF, has designed various projects since 1993, some of which have been implemented while others are still dependent on funding which has been slow to materialize.

123. Minors in prisons fall into two categories: children who are no longer babies, but who remain with their mothers in prison, and children who are in conflict with the law. Such children are minors under international conventions but have criminal responsibility under Burundian legislation. A programme set up by the Ministry of Justice and the NGO "Terre des Hommes" is helping mothers and some 50 young children in prisons. Under Burundian law, a child cannot stay in prison past the age of three. However, in the absence of a foster home, when relatives of the mother or her husband do not want the child, the situation is often different in practice.

124. In Burundi, children under 16 years old cannot be employed in industry, even as apprentices, so that their health and schooling do not suffer. In practice, in rural areas, children under 16 carry out heavy manual labour in daytime and during the school year. Children are prohibited by law from working at night, although many do so in the informal sector. Furthermore, the population is dependent on subsistence farming and children are obliged, by tradition and economic necessity, to perform subsistence agricultural work on an informal basis on the family farm.

125. Child prostitution is beginning to take on disquieting proportions in Burundi on account of the precarious nature of family living conditions and the fact that children are being abandoned. In 2000, the Government launched a campaign to curb child prostitution in Bujumbura, but there the arrest and detention of girls working as prostitutes did not lead to any real progress.

126. The minimum age for military service is 18. It has been observed, however, that younger children are being forcefully enlisted into the military and armed groups, where they are made to work as messengers and even to do compulsory labour.

L. Economic, social and cultural rights

127. One of the great human rights concerns in Burundi continues to be the food, health and education situation. Because of bad climatic conditions, insecurity and large-scale and forced displacements, malnutrition and disease are beginning to claim more victims than war. There is

a shortage of professionals working in the education and health sectors because many of them are leaving the country. Furthermore, the war has destroyed schools, hospitals and health care centres.

128. The health situation is critical; a large majority of the population is not eating enough (once a day) and access to drinking water is difficult. There is widespread poverty and many Burundians are homeless. All of these concerns were raised in the report submitted to the General Assembly in October 2000, and the situation has since deteriorated (A/55/358, paras. 83 to 87). Approximately 30 per cent of the population is affected by malaria, including the people living in the collines, who are more resistant to disease and who were not affected in the past.

129. The AIDS prevalence rate is between 3 and 10 per cent among the rural population and between 18 and 23 per cent among the urban population. Up to 80 per cent of hospital beds, particularly in internal medicine, are occupied by AIDS sufferers. In response to this situation, the Government has set up a solidarity fund to subsidize half the cost of treatment. The remainder, however, which has to be paid by the patient - namely 80,000 Burundi francs - is virtually unaffordable considering that the average salary is about 30,000 Burundi francs.

130. The Government's efforts to limit epidemics, boost the use of vaccines, restore the health infrastructure, redeploy personnel, set up community-run chemists and support the operation of a dispensary of essential generic medicines remain disproportionate to the vastness of the needs. Only 4 per cent of the State budget is allocated to health, but the problem also lies in the fact that the allocated funds need to be better managed. The Special Rapporteur has been informed that some of the funds assigned to the Ministry of Health for the year 2000 are being under-utilized or misused.

131. Cases of malnutrition have increased threefold in the last year. Malnutrition is particularly acute in the province of Bubanza where 7,500 people mostly pregnant women and children, are receiving help at the centres. In the province of Bujumbura-rural, the number of people receiving care increased from 3,500 to 5,500 in the month of November. In the province of Kayanza, 8,000 people were receiving care in March and this figure increased steadily, reaching 20,000 people in December. The figure for the province of Karuzi was 12,000 at the end of December. The figures for the provinces of Rutana and Gitega were high. The causes of such malnutrition are linked to poverty and the rise in cases of malaria and other diseases that were thought to have been eradicated, such as measles, cholera and kwashiorkor. Other reasons are the poor farming methods, the shortage of seeds and the unpredictable nature of the climate. The needs in this area are so great that the efforts made by the international community and the Government to stem the scourge seem inadequate.

III. JUSTICE SYSTEM AND RULE OF LAW

A. Administration of justice

132. On the whole, some progress has been made in the justice system. Recently, however, the political situation in Burundi has also influenced the legal framework. The Special Rapporteur noted some unrest, particularly among judges. Admittedly, the new judges' statute took effect on 1 September 2000 and incentive bonuses have been introduced, but a number of

judges feel discontented because implementation of the Arusha Agreement means that several of them face an uncertain future. Furthermore, the bonus, even though it does show that their situation has progressed, is still highly insufficient. They also feel restricted in their work because of the poor resources made available to them.

133. According to the Minister of Justice, a major challenge which the legal services must immediately address is that of easing overcrowding in detention centres. The number of prisoners, which has been reduced by almost 1,000 since last year, is still high. Furthermore, thanks to the work of the prosecution service's mobile units, virtually all cases are before the courts. The plan now is to extend this solution to the Criminal Divisions and thus speed up the procedure at that level.

134. There are some negative aspects, however, which are hindering the promotion of an equitable justice system. For example, with regard to the implementation of the Code of Criminal Procedure, some judicial police officers who deal with the substantive aspects of cases circumvent the law by releasing the parties involved after the legally permissible period of detention, and then arresting them again.

135. Another issue is the political exploitation of facts that are to be addressed in court or have already been addressed (the Sabena case). Furthermore, there is an ongoing problem, if not a proliferation, of illegal detentions in military bases. The justice system is still crippled by corruption, which increasingly seems to be vitiating trials. It would also seem that the interpretation of the right to parole is arbitrary. The treatment of the cases of Dr. Aloys Hakizimana and Ambassador Balthazar Ndimirwanko could no doubt serve as proof.

B. Strengthening the rule of law

136. Since its establishment in Burundi in 1994, the Office of the High Commissioner for Human Rights in Burundi (OHCHRB) has endeavoured to train legal professionals in order to strengthen the institutional capacity of the legal system in the administration of justice. It has also set up a legal assistance programme (LAP) to support the Burundian legal system in combating impunity. The training programme involves judges from the Tribunaux de résidence, some judges from the higher courts and the public prosecutor's office, military judges, judicial police officers and prison staff. With the exception of 1998, OHCHRB has never been able to conduct all the training activities scheduled for the year due to lack of funding. However, a human rights training seminar was organized recently for 37 military judges, which will be followed by a training course for judicial police officers from the gendarmerie.

137. The LAP was launched in February 1997, with the approval of the Burundian Government. The programme provides legal assistance, through lawyers, to the victims and those accused of the criminal activities that took place in the aftermath of the crisis of October 1993, who are called before the country's three criminal divisions, the military courts and the Supreme Court. OHCHRB continues to assist defendants with the help of eight Burundian lawyers.

138. In September 2000, the Gitega Criminal Division held seven hearings instead of the eight that had been scheduled. The Court was only able to hear 33 cases, 6 of which resulted in

decisions. The Ngozi Criminal Division did not examine any of the 39 cases on the docket. All the cases were deferred, the main reason for which remains the failure of witnesses and civil claimants to appear. Iteka and another Burundian association called Agir Tufatanye have been a reliable source of assistance in transporting witnesses, but very often it is impossible for all witnesses to be present. In Bujumbura, the Criminal Division examined and closed 6 of the 80 cases on the docket in 13 public hearings. Seventy-four cases were postponed to a later date, largely due to the absence of witnesses. In the Supreme Court, the 13 cases on the docket were all deferred. Productivity for the month of September 2000 was lower than that of previous months. Of the 152 cases that were brought before the three courts, 12 decisions were handed down compared to 13 in June 2000 and 22 in May 2000.

139. The fifteenth session of the Criminal Divisions ran from 2 October to 2 November 2000, with the participation of six international lawyers provided by the LAP working side by side with the eight Burundian lawyers permanently attached to the programme. Of the 380 cases on the docket, 67 cases were closed by 67 decisions, including 24 death sentences. During the session, the LAP provided assistance for 404 defendants and 78 civil claimants.

140. Three hundred and thirteen cases were postponed, primarily because of the continued failure of witnesses, and occasionally of civil claimants to appear. The issue raised at the most recent sessions has been the high number of cases on the dockets which is problematic for the associations that provide transport for witnesses and civil claimants. These problems have affected the Criminal Divisions in Bujumbura and Ngozi because Iteka has sometimes had to make a choice between two or three towns when going to fetch witnesses.

141. In Gitega, the scheduling of cases to be heard before the Criminal Division is not set in stone. The deferrals made by the Court in hearings are still subject to change, and illegal changes are made to hearing dates. This is to the disadvantage of the parties to the trial, whose cases can be postponed several times because of the absence of witnesses and civil claimants. It is also a great disadvantage for accused persons released on parole, who cannot be informed of such changes to the hearing dates.

142. Despite the difficulties raised, it is worth noting, that the fifteenth session was somewhat more productive than the previous one; 380 cases were called, compared to 368; more decisions were made than at the previous session (67 compared to 57). There was, however, a marked increase in the number of death sentences, particularly in Bujumbara (15 compared to 7 at the previous session). The three Criminal Divisions handed down a total of 24 death sentences compared to 15 at the previous session. There were also, on the whole, fewer acquittals (37 compared to 41 at the July 2000 session). On the other hand, 482 parties were provided with assistance compared to 459 at the previous session.

143. The Criminal Divisions resumed ordinary hearings on 2 November 2000, following the October session. The eight national lawyers from the LAP continued to provide assistance to those involved in the trials. Many cases were called, but very few were closed, which is often the case in out-of-session periods.

144. Representatives of the LAP unit in Gitega and Ngozi made several visits to the prisons in their duty stations where they interviewed prisoners about judicial procedures and the legal

assistance programme, gathered requests for assistance and made a note of prison conditions. Seventy-eight new requests for legal assistance were registered, of which 46 were from Ngozi, 12 from Gitega and 20 from Bujumbura. The prison visits also helped to follow up and speed up the pre-trial proceedings of some of the cases that were slow in being brought to court.

145. In December 2000, the Criminal Divisions in Bujumbura, Gitega and Ngozi began to operate mobile units. Considering the insufficient resources available, productivity varies according to court and province. The Gitega Criminal Division had the highest performance rate and was the most efficient. It set up a base in Ruyigi and one in Gitega. The Ruyigi court, for example, closed 17 of the 28 scheduled cases. The Bujumbura Criminal Division set up a base in Muramvya and one in Bujumbura. In Muramvya, 2 of a total of 13 scheduled cases were closed. The second base closed 3 cases of the 13 that were called. The Ngozi Criminal Division was based only in Muyinga. Of a total of 52 cases called for the last week of the mobile sessions, only 2 were closed.

146. Nevertheless, the results obtained by the legal assistance provided in the month of December were still positive despite the difficulties experienced by the Ngozi Criminal Division. Decisions on 57 cases, involving 82 prisoners and several civil claimants, were handed down in the course of the month.

C. Human rights promotion and education

147. A discussion workshop on the death penalty was organized by OHCHRB after the fifteenth session of the Criminal Divisions. The objective was to raise participants' awareness of legal assistance, but also to make criminal division judges aware of the severity of a death sentence and the need for due respect for the rights of persons facing capital charges. Despite the fact that opinions were divided about the need to abolish the death penalty in Burundi, the workshop served to call into question the individual responsibility of each of the parties involved when the death penalty is handed down, and the role of the individual in changing attitudes and opinions on that subject.

148. Several seminars were organized with the help of OHCHRB. The Gitega sub-office undertook the organization of a human rights training and awareness seminar from 21 to 24 August 2000 for 65 young people from the Nyamugari centre, focusing on two themes, The concept of human rights and Peaceful conflict resolution: Principles and methods.

149. From 6 to 8 September 2000, the Ministry of Reintegration and Resettlement of Displaced and Repatriated Persons and the United Nations Development Programme held a seminar on the rehabilitation of victims of disaster in Burundi.

150. From 26 to 27 October 2000, OHCHRB participated in a seminar on legislation in favour of disabled people, a project funded by the ACT network. The seminar focused on the overview of national and international legislation concerning disabled people, and made some recommendations for future legislation to benefit that group. On 24 November 2000, an equal opportunities seminar was organized by the Disabled Persons Union in Burundi.

151. In December 2000, OHCHRB organized some activities to commemorate the fifty-second anniversary of the Universal Declaration of Human Rights, in cooperation with the Ministry of Human Rights and members of civil society, particularly human rights associations. The activities focused on the general theme "The justice system as the guarantor of human rights and individual freedoms". In Bujumbura, events included a round table discussion, a television broadcast and programmes on national radio about the human rights situation, songs, a quiz and the broadcast of a message by the High Commissioner for Human Rights. On 10 December 2000, some panel discussions were held in Gitega and Ngozi.

152. A human rights training seminar was organized by the Norwegian Council for Refugees from 4 to 5 December 2000, focusing on themes such as education, human rights teaching, the United Nations and the conventions on women, children and refugees, Burundian schools and human rights, ways of identifying different human rights situations and the global and centrist views of the population: prejudices and ways of combating them, etc.

153. On 18 December 2000, UNICEF and the Burundian Government represented by the Ministry of Public Health organized a day to mark the publication of the UNICEF report The State of the World's Children 2001.

IV. OBSERVATIONS

154. Burundi's priority is to end the war. Many people think, with good reason, that human rights are being violated because of the ongoing war and because the signing of a peace agreement without a ceasefire has not really brought peace. Nevertheless, the war cannot be the sole explanation for the violations that are taking place, and when peace is restored, action to enforce human rights will continue. It is therefore necessary not only to seek peace, but to act now to create a system and the means to enforce human rights, and not always blame the war.

155. The people seem to be hostage to the political establishment, which is experiencing some difficulties in resolving the question of leadership which it considers to be a priority. There is, in fact, some disparity between the expectations of the people and the attitude of the politicians who claim to represent them. For the people, peace is fundamental, while politicians seem to be focusing on the distribution of power and positions of responsibility.

156. Civilians are being subjected to abusive treatment by the military and armed groups; they are being forced to contribute to financing the war effort and made to undertake forced labour. The situation of the Burundian people, particularly those living in rural areas and the collines, has generally become more precarious since July 2000. People are suffering from hunger, cold and disease. In most of the places visited, including prisons, displaced persons camps and nutrition centres, the smiles have disappeared from people's faces, particularly the children's. People no longer seem to have the strength to bear the suffering. This is perceptible in the lifestyle that they have been forced to adopt; in other words, people no longer have hope in the future of Burundi. It is therefore essential to give people the will to live, not only by providing them with assistance but also by helping to rekindle their creativity, spirit of initiative and desire to live for a better future. The current situation is bringing with it a feeling of passivity that is damaging to economic development.

157. One of the major challenges facing the Burundian Government and the international community is the coordination and follow-up of the Paris Conference. The Ministry of Planning, the Ministry of Finance, the World Bank and the United Nations Development Programme (UNDP) will provide technical follow-up to this meeting. Current initiatives include measures to update the joint emergency plan of the United Nations team in Burundi and to encourage greater integration of human rights in the various development projects.

158. During the transition period, human rights protection will be of the utmost importance, and it will play a part in the management of problems that will arise, namely: return of refugees, demobilization of armed groups, maintenance of public order, implementation of laws and follow-up of development programmes. It is therefore important to provide for human rights training, as well as training on how to prepare projects and requests to donors for assistance, so that such projects have every chance of being funded. Furthermore, traditional institutions should be involved, to help the understanding and management of activities in political, legal, social and cultural fields.

159. The army continues to become involved illegally in matters reserved for the justice system. Furthermore, it is difficult to prevent violations when it turns out that the army is the perpetrator.

160. Women, particularly those from rural areas, are the main victims of the war, displacement and regroupment, yet they are excluded from the peace process. The peace process should therefore be explained to them in order that they may participate in the implementation of the Arusha Agreement.

161. Meetings that the Special Rapporteur conducted with party representatives, human rights leagues and movements opposed to the Arusha process show that some of Burundi's political players are still concerned about the international community's response to the report by the United Nations International Commission of Inquiry (S/1996/682).

162. The Governmental Commission on Human Rights began working with members of the former liaison unit because, with the exception of the President, its members had not yet been appointed. The Commission enjoys greater investigative capacity and its mandate is due to be extended to cooperation with NGOs. However, the issues of pay for its members and the lack of logistical resources at its disposal could hinder the efficiency of its work. The nomination procedures for its members as defined by the Government could also hinder its efficiency.

V. RECOMMENDATIONS

163. The Special Rapporteur, reiterating the recommendations contained in her last report to the General Assembly (A/55/358, paras. 112 to 141), wishes to make some further recommendations to highlight the paths and measures that must be taken to improve the human rights situation in Burundi.

A. To the parties to the conflict

164. The Special Rapporteur strongly condemns the acts of violence perpetrated against the civilian population, particularly those against women and children. She urges the parties to the conflict to respect the right to life, and, whatever the reasons for their actions may be, to end the involvement of innocent children in their fighting.

165. Burundi has already suffered too much from the war. The Special Rapporteur asks all parties to the conflict to show some concern for the children of Burundi who are dying of hunger, frozen to the marrow and scarred for life by the sound of gunshots, and to sit down at the negotiating table and decide what is good for these children and not primarily for themselves.

166. She urges the parties to the conflict to respect the dignity of innocent people by not subjecting them to degrading and humiliating treatment, because in doing so they are dehumanizing their victims, but also dehumanizing themselves. She reminds them that Burundi belongs to each and every one of them, and destroying it with endless fighting means that they are also negating their own future and that of their descendents. They must open their eyes to this and take a decision to stop the armed conflict.

167. The donor countries that have taken into consideration the suffering of the Burundian people have made a commitment to provide funding for the implementation of the Arusha Agreement and for Burundi, and not for the benefit of the present authorities; this agreement must therefore be put into effect. For a successful peace process and a credible Agreement on Peace and Reconciliation in Burundi, the Special Rapporteur joins all those who have urged the armed groups to participate in negotiations.

168. In order to promote a better climate for dialogue and negotiation with the rebels, the Special Rapporteur believes that it might be desirable, when requesting a cessation of armed hostilities, to show a clear will to end political hostilities, particularly by avoiding the systematic "demonization" of the opposition. The campaign against impunity must focus on the individual responsibility of those carrying out violations and not on that of groups to which they may belong.

B. To the Burundian authorities

169. The Special Rapporteur encourages the Burundian Government to continue to promote the Arusha process solution for discussing and resolving the conflict in Burundi; she welcomes the attitudes that have been adopted in this regard.

170. The Special Rapporteur supports the measures taken by the Ministry of Human Rights in favour of respect for and promotion of human rights and encourages it to continue its work, namely denouncing all violations, including those involving the army.

171. She appeals to the Burundian authorities to facilitate access for local and international organizations and United Nations bodies to sites for displaced persons and to victims of the crisis, in accordance with the Guiding Principles on Internal Displacement, to enable them to carry out the necessary humanitarian activities.

172. The Special Rapporteur recommends that the Government should promote the introduction of a consultation forum where all Burundian women, from any association, political party, region, profession or ethnic origin, could meet and adopt a common action plan to promote and implement their ideas; the foundations for this type of structure have already been laid and they need to be strengthened.

173. In order to encourage the full development of Burundian women and to enable them to participate in their country's development, the Special Rapporteur again highlights the need to make texts on women's rights widely available in the national language, and also the fact that it is in the interest of all Burundians to see a law enacted on inheritance matters and marriage contracts.

174. To help Burundian women play their role in society during wartime, the Special Rapporteur recommends that the Government should increase its aid to women's associations through the provision of micro-credit.

175. She sincerely hopes that women will play a larger role in the institutions responsible for implementing the Arusha Agreement, particularly in the decision-making bodies and control of the use of the funds provided to Burundi at the Paris Conference.

176. Regarding the justice system, she encourages the Government to submit proposals to donors, including requests for assistance in designing projects, particularly to the European Union, whose available funds cannot be used without a formal request. UHCHRB could act as the executing agency for projects in the field of human rights.

177. The Special Rapporteur invites the Government to set up halfway houses for children coming out of prison and to ensure that they receive socio-occupational training.

178. She supports all the measures taken by the Government to separate minors from adults and men from women in prisons, and asks that these measures be extended to all the detention centres in the country.

179. She encourages decisions to amend legislation, with a view to abolishing the death penalty. Likewise, she hopes that the provisions of Burundian law on the criminal responsibility of minors will be brought into line with international provisions.

180. She welcomes the measures taken by the Government to reduce the ethnic imbalance in the justice system and encourages it to strengthen them with a more proactive attitude.

181. She commends the Government for the initiatives it has taken in favour of parole for prisoners and encourages it to extend these measures, without discrimination, to anyone who meets the criteria, with no restrictions other than those imposed to ensure equity.

182. The Special Rapporteur strongly condemns unlawful detention, particularly when it is at the hands of the army on illegal premises, as well as the perpetual detention of accused persons whose sentences are of no concern to the judges hearing their cases. She expects the authorities to take some stringent measures to put an end to such unacceptable conduct.

183. In order to hasten the emergence of a more equitable justice system, the Special Rapporteur recommends that the Government should step up its support to judicial bodies by increasing the material and logistical resources put at their disposal, particularly vehicles to facilitate the follow-up of inquiries.

184. She also encourages the training of legal professionals, particularly in the fields of human rights and juvenile justice, and is in favour of an increase in human resources in the legal sector.

185. She invites the Burundian authorities to make every effort to promote human rights education at all levels to facilitate the emergence of a state based on rule of law, to forge a strong civil society and a responsible and democratic opposition force through the press and political parties.

186. She recommends greater financial and logistical support for the human rights commissions of the Government and the National Assembly to enable them to carry out their tasks effectively.

187. Given the unaffordable cost of modern health care, the Special Rapporteur suggests that cheaper and more accessible traditional practices and therapies should be identified and their integration favoured.

188. In order to reduce the pressure of the economic crisis on the people, particularly on the most disadvantaged groups, she hopes that the Government will encourage plans to create jobs and to enable Burundians to take care of themselves and to improve their standard of living (tile and brick production using "géobéton" for rebuilding destroyed houses).

189. The Special Rapporteur condemns the discrimination against the Twa minority and urges the Burundian authorities to design and implement projects to ensure that their rights are respected and to integrate them into Burundi's economic, social, cultural and political development.

C. To the international community

190. The success of the peace process and of the facilitation process led by Nelson Mandela is crucial to the improvement of the human rights situation in Burundi. The Special Rapporteur commends the Facilitator and all parties involved in the peace process for the success that has already been achieved and encourages them to continue their efforts to bring all parties to the conflict to the negotiating table, to work towards the full emergence of peace among the people of Burundi.

191. She calls on the actors of the international community to find and implement the most appropriate ways of reaching an outcome to the Burundian conflict that is based on the solution of negotiation and dialogue.

192. She stresses to the international community that there is an urgent need, for the sake of human rights in Burundi, to bring the hostilities to an immediate halt, failing which it will be impossible to apply the majority of the provisions of the Arusha Agreement.

193. Because the proliferation of arms in Africa, particularly in the Great Lakes region, is a factor behind the spread and intensification of armed conflicts, the Special Rapporteur urges the international community to do everything in its power to stop the illegal sale of arms and trafficking of all kinds. She also asks the international community to ensure strict compliance with legislation against the illegal sale of arms; otherwise Africa would be headed for tragedy more fatal than the slave trade.

194. She thanks the donors who participated in the Paris Conference for the support they have shown for Burundi and encourages them to act upon the commitments they made, particularly with regard to the urgent measures to support human rights in the fields of justice, women's rights and social, economic and cultural rights.

195. Legal assistance within the framework of the International Commission of Inquiry into events in Burundi is a priority if overcrowding in prisons is to be reduced and a lasting solution found to the issue of political prisoners. The Special Rapporteur recommends that OHCHRB should help with setting up the Commission of Inquiry and with providing legal assistance because its experience in this field could be extremely valuable.

196. There is also an urgent need to increase the humanitarian assistance provided to prisoners by certain associations and NGOs, to alleviate the prison conditions they are currently living in. The Special Rapporteur invites donor countries to step up their support to the national and international leagues that are working towards better implementation of justice and improved living conditions for prisoners.

197. She wholeheartedly encourages OHCHRB to organize a structure to provide better guidance for NGOs and national associations working to defend human rights.

198. She hopes that OHCHRB will participate in the "protection of human rights" element of the tripartite agreement between Tanzania, Burundi and UNHCR relating to the repatriation of Burundian refugees from Tanzania.

199. The Special Rapporteur hopes that there will be greater coordination of activities in the humanitarian and human rights fields to assist displaced persons, based on the Guiding Principles on Internal Displacement compiled by the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng.

200. In order to guarantee the success of development programmes, the various bodies of the United Nations system should integrate a human rights dimension into their projects. The Special Rapporteur therefore encourages the organization of human rights training activities for the staff of the United Nations and national and international NGOs. She calls for greater cooperation between the bodies of the United Nations system and OHCHRB, and for more effective involvement by OHCHRB in the activities of human rights bodies.

201. In order to help promote democracy and the emergence of a state based on rule of law, she recommends that more support should be given to the printed media and to civil society.

202. She encourages international cooperation in the field of health. She invites the international community to support projects aimed at integrating traditional therapies into health care.

203. The Special Rapporteur asks the international community to support child welfare projects, notably those organized by the United Nations, in particular UNICEF, by the Ministry of Social Action and the Advancement of Women and by local and international NGOs.

204. In order to improve the effectiveness of human rights activities in Burundi, the Special Rapporteur invites the thematic special rapporteurs and special representatives of the Secretary-General, particularly those relating to women, children and human rights defenders, to carry out missions to Burundi.

205. The Special Rapporteur commends the national and international associations and bodies as well as all the individuals who are fighting for human rights in Burundi and urges them not to give up. She calls on the international community to give them the support they need to succeed in their commitment.

206. The Special Rapporteur invites the international community to endeavour to make the politicians and leaders of the sub-region aware of the importance of peace in the Great Lakes countries and of the success to be achieved by concerted action in this field.

207. Lastly, the Special Rapporteur hopes that the international community will support the Government's measures to strengthen the rule of law, to promote women's rights and the protection of children, to guarantee civil and political freedoms and to respect the social, economic and cultural rights of all Burundian people.

Notes

[1] Ministry of Health, cited by the World Health Organization (WHO).

[2] Action Plan 2000 - Ministry of Social Action and the Advancement of Women and UNICEF.

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